

REVIEW OF THE SCHOOL EDUCATION ACT 1999 (WA)

Drafted on behalf of the Expert Panel and Advisory Council

**Final Report
December
2024**

Contents

Authors	4
Acknowledgement of Country	4
Acknowledgement of people with disability	5
Important information	5
All recommendations	5
Foreword from the Expert Panel Chair	7
Abbreviations and acronyms	8
Executive summary	9
Introduction	11
Relevance to the Disability Royal Commission	11
Context.....	12
Terms of reference.....	12
Research Packages.....	13
Consultation findings.....	13
Deep dive interviews with children and young people	15
Considerations by the Expert Panel and Advisory Council	15
Limitations	15
The recommendations in detail	16
Objects of the <i>School Education Act 1999</i>	17
Background.....	17
Research	17
Findings	18
Recommendations	18
Principles of the <i>School Education Act 1999</i>	19
Background.....	19
Research	19
Findings	20
Recommendations	20
Defining disability	21
Background.....	21
Research	21
Findings	22
Recommendations	22
Inclusive education	23
Background.....	23
Research	23
Findings	24
Recommendations	24

Right to enrol.....	26
Background.....	26
Research	26
Findings	28
Recommendations	28
Reasonable adjustments	30
Background.....	30
Research	30
Findings	34
Recommendations	34
Communication and consultation	36
Background.....	36
Research	36
Findings	38
Recommendations	38
Breaches of discipline	39
Background.....	39
Research	39
Findings	41
Recommendations	41
Panels	42
Background.....	42
Research	42
Findings	44
Recommendations	44
Restrictive practices	46
Background.....	46
Research	46
Findings	48
Recommendations	48
Disputes and resolutions.....	49
Background.....	49
Research	49
Findings	51
Recommendations	51
Monitoring progress.....	53
Background.....	53
Research	53
Findings	54
Recommendations	54

Standards for non-government schools.....	56
Background.....	56
Research	56
Findings	57
Recommendations	57
Other important issues – Flexible arrangements.....	58
Background.....	58
Research	58
Findings	60
Recommendations	60
Other important issues – Roles and responsibilities.....	62
Background.....	62
Research	62
Findings	64
Recommendations	64
Conclusion.....	65
Appendix 1: Terms of Reference.....	66
Appendix 2: Consultation approach and participation.....	69
Appendix 3: Impact diagrams from consultation with children and young people	72

Authors

This report was drafted on behalf of the independent Expert Panel and Advisory Council, who led the review of the *School Education Act 1999* (WA).

The Expert Panel comprised seven members appointed by the Minister for Education for their expertise and experience in disability, education, and human rights.

- Professor Andrew Whitehouse (Chair)
- Dr Sarah Bernard
- Kane Blackman
- Charmaine Ford
- Cátia Malaquias OAM
- Maria Mansour
- Anna Steele

The review's Advisory Council was the Developmental Disability WA Advisory Council, comprised of eight members with lived experience of disability.

- Michelle Silver (Chair)
- Peter Bluett
- Kyal Fairbairn
- Liam Flynn
- Kristy Marsiglia
- James McNulty
- Shariq Sharma
- Justin Storen

The review was supported by the Department of Education through a Secretariat team.

- Louise Looby (Project Manager)
- Courtenay Pouleris
- Charlotte Stapleton

Acknowledgement of Country

We respectfully acknowledge the Traditional Owners and Custodians of the lands and waters on which the work of this review was undertaken, and on which students learn throughout Western Australia.

We acknowledge the passage of knowledge between generations that has been practiced for millennia by First Nations Elders, communities, and cultures. The education of all Western Australian students is enriched when First Nations students, Elders, and communities are supported to bring this knowledge into their schools.

Acknowledgement of people with disability

We respectfully acknowledge people with disability who contributed to the review by sharing their experiences, thoughts, and ideas. We acknowledge the strength and generosity it takes to advocate for change.

Important information

This document has been prepared for the Minister for Education. Consideration should be given to producing accessible versions of the report, such as Easy Read and accessible PDF, prior to any further dissemination or public release.

All recommendations

Recommendation 1

The objects of the *School Education Act 1999* (WA) should be expanded to establish a framework for inclusive education in which schools empower all students to learn, participate and thrive.

Recommendation 2

Introduce principles to the *School Education Act 1999* (WA) that value the school experience of all students, including the value of inclusive education for students with disability.

Recommendation 3

Reframe the definition of 'disability' within the *School Education Act 1999* (WA) so that it aligns to the social model of disability.

Recommendation 4

Introduce the concept of 'inclusive education', defined in line with Article 24 of the Convention of the Rights of Persons with Disabilities, and enshrine it in the *School Education Act 1999* (WA) through reference in the objects and principles.

Recommendation 5

The *School Education Act 1999* (WA) should ensure that disability is not a consideration for denial of enrolment in WA schools.

Recommendation 6

WA legislation should recognise the obligation to provide reasonable adjustments in education settings to avoid discrimination.

Recommendation 7

There should be explicit provisions addressing when and how schools should engage with children and their parent(s) in key decisions. This may be enacted through the *School Education Act 1999* (WA) or another legislative instrument.

Recommendation 8

The *School Education Act 1999* (WA) should provide a framework for suspension and exclusion for breaches of school discipline, that aims to prevent discrimination on the basis of disability and is aligned to the Disability Discrimination Act 1992 (Cth) and the Equal Opportunity Act 1984 (WA).

Recommendation 9

Instead of having Discipline Advisory Panel and Disabilities Advisory Panel, there should just be one type of panel within the *School Education Act 1999* (WA) that considers exclusionary discipline. The panel should be formed for any exclusion of a child under Sections 91(a) and 91(b) and panel membership must include at least one independent person with lived experience of any equity groups relevant to the student's identity (such as disability, First Nations [for First Nations children this should be a local elder], students in out of home care, CALD, LGBTQIA+, etc).

Recommendation 10

The attendance panel provisions within Section 39 of the *School Education Act 1999* (WA) should provide that panel membership include at least one independent person with lived experience of any equity groups relevant to the student's identity (such as disability, First Nations [for First Nations children this should be a local elder], students in out of home care, CALD, LGBTQIA+, etc).

Recommendation 11

Introduce provisions into the *School Education Act 1999* (WA), its subordinate legislation, or alternative WA legislation that provide greater clarity about the use of restrictive practices in education. This should apply to all children across government and non-government schools.

Recommendation 12

Consistent with the Disability Royal Commission Recommendation 7.10, accepted in principle by the WA Government, introduce provisions into the *School Education Act 1999* (WA) to establish an independent complaints, disputes and resolutions body.

Recommendation 13

Introduce data collection obligations into the *School Education Act 1999* (WA) to enable the Minister to monitor progress against the objects and principles of the *School Education Act 1999* (WA).

Recommendation 14

Introduce a statutory review provision to ensure that any changes made to the *School Education Act 1999* (WA) as a result of a Bill responding to this review, must be reviewed within 5 years of taking effect; and the review report be tabled in Parliament.

Recommendation 15

There should be obligations on non-government schools regarding access and inclusion for students with disability. This could be actioned through expanding the Standards under Subsection 159(1) of the *School Education Act 1999* (WA).

Foreword from the Expert Panel Chair

Every child has a right to a high-quality education as a basis for acquiring knowledge and skills that empowers them to develop their talents, pursue their aspirations, and lead fulfilling and meaningful lives.

Students with disability are at increased risk of having their right to education unfulfilled. Barriers to access and inclusion in education can hinder their ability to develop essential skills and limit their future opportunities for personal and professional growth. As a result, they may experience social isolation, economic disadvantage, and reduced quality of life.

The *School Education Act 1999* (WA) guides the education system in Western Australia. The Act was drafted 25 years ago and does not adequately reflect many aspects of our contemporary understanding of disability. This has consequences for how the education system is structured and operated, and can create misalignment between community expectations of schooling for students with disability and what actually occurs.

A review of the Act, specifically as it relates to the barriers to access and inclusion for students with disability, is timely. We are grateful to the Western Australian Government and the Minister for Education for the opportunity to undertake this important review.

The review undertook a detailed research process designed to understand the rapidly advancing information and policy landscape, and what WA can learn from advances in jurisdictions around the world. This information guided an engaging and highly productive consultation process with hundreds of people across WA. As we observed, WA has so much to be proud of in the passion and dedication of educators, students, family members, and supporting organisations to the education of students with disability in our state.

The clearest finding from this consultation was the genuine and near unanimous alignment of stakeholders that the education system must be better supported to enable high-quality and inclusive education for students with disability in WA, and that the *School Education Act 1999* (WA) has a key role in supporting these changes.

Using this evidence as a foundation, the Expert Panel and Advisory Council have made a suite of recommendations that will remove barriers and strengthen access and inclusion for students with disability in WA. For us, the key measure of success will be if these recommendations support a 'rising tide' of structural, operational, and cultural change across WA's education system that enables students with disability to fully participate, learn, and thrive in a supportive and equitable environment alongside their peers.

On behalf of the Expert Panel and the Advisory Council, I would like to thank all stakeholders who contributed to the review, including those who attended the more than 30 face-to-face consultation sessions, and provided over 200 written submissions to the Discussion Paper. The generosity with which you shared your expertise and experience ensured that we had rich evidence to understand how the Act may contribute to limiting the access and inclusion for students with disability in WA.

I am pleased to share this final report on behalf of the Expert Panel and Advisory Council. It is our hope that these recommendations, backed by strong supporting evidence, act as a catalyst for change to ensure that future generations of students with disability can have their right to high-quality inclusive education fulfilled.

Professor Andrew Whitehouse
Chair, Expert Panel



December 2024

Abbreviations and acronyms

Abbreviation/ acronym	Definition
ATAR	Australian Tertiary Admission Rank
CALD	Culturally and Linguistically Diverse
CEO	Chief Executive Officers
CRC	Convention for the Rights of the Child
CRPD	Convention for the Rights of Persons with Disabilities
Disability Royal Commission	Royal Commission into Violence, Abuse, Neglect, and Exploitation of People with Disability
DDA	<i>Disability Discrimination Act 1992 (Cth)</i>
DSE	<i>Disability Standards for Education 2005 (Cth)</i>
EOA	<i>Equal Opportunity Act 1984 (WA)</i>
IDA	Individual Disability Allocation
IEP	Individual Education Plans
LRCWA	Law Reform Commission of Western Australia
LGBTQIA+	Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual, plus other diverse gender and sexual identities
NAPLAN	National Assessment Program – Literacy and Numeracy
Parents	In line with Section 4 of the <i>School Education Act 1999 (WA)</i> , the term parents is used to describe a person who has responsibility for the day-to-day, or long-term care, welfare and development of the child
SE Act	<i>School Education Act 1999 (WA)</i>
TACSI	The Australian Centre for Social Innovation
WA	Western Australia
WACE	Western Australian Certificate of Education
YDAN	Youth Disability Advocacy Network

Executive summary

In this review of the *School Education Act 1999* (WA) (or SE Act), the Expert Panel and Advisory Council propose 15 recommendations for legislative reform to strengthen access and inclusion for students with disability in the WA education system. All recommendations are based on comprehensive background research, analysis of consultation data, and findings from deep dive interviews with children and young people.

Through this report, we recommend legislative changes to the following:

- **Objects:** expand the objects to establish a framework for inclusive education.
- **Principles:** introduce principles to the SE Act to support inclusive education.
- **Disability:** amend the definition of 'disability' to align to a social model of disability.
- **Inclusive education:** introduce the concept of 'inclusive education', defined in line with Article 24 of the United Nations Convention on the Rights of Persons with Disability (CRPD).
- **Enrolment:** provide clarity that disability cannot be a consideration for denial of enrolment.
- **Reasonable adjustments:** recognise the duty to provide reasonable adjustments in education settings to avoid discrimination.
- **Communication and consultation:** outline when and how schools should engage with children and their parents in key decisions.
- **Breaches of discipline:** establish a framework to prevent the discrimination of students with disability regarding breaches of discipline.
- **Panels:** reframe Discipline Advisory Panels, Disabilities Advisory Panels and Attendance Panels so they are better tailored to the diversity of all children.
- **Restrictive practices:** provide greater clarity on the use of restrictive practices in education.
- **Disputes and resolutions:** establish an independent complaints, disputes and resolutions body.
- **Monitoring progress:** introduce data collection obligations to monitor progress towards achievements of the objects and principles of the Act.
- **Standards for non-government schools:** extend the Standards to explicitly include matters related to students with disability.

Several recommendations are made to better align the SE Act to the obligations under existing legislation aimed at preventing discrimination and upholding the rights of people with disabilities. Existing legislation includes: the *Disability Discrimination Act 1992* (Cth) (or DDA), the *Disability Standards for Education 2005* (Cth) (or DSE) and the *Equal Opportunity Act 1984* (WA) (or EOA).

In some cases, we have left open the question of whether certain recommendations should be actioned through the SE Act or another appropriate legislative instrument such as the EOA, which was subject to a review by the Law Reform Commission of Western Australia (or LRCWA) that published 163 recommendations in August 2022. To date, these reforms have not been introduced to Parliament.

The Expert Panel and Advisory Council's approach in considering these matters recognises that equitable access and meaningful inclusion for students with disability encompasses protections against discrimination as well as the fulfilment of positive obligations. This dual dimension, which is evident in Article 24 of the CRPD, means that education laws inherently intersect with anti-discrimination laws, as both frameworks are necessary to safeguard and promote the right to inclusive education of students with disability.

As the focus of the SE Act is primarily on systemic frameworks, we consider that it should clearly provide for positive obligations for the implementation of system-wide inclusive practices and promote the progressive transformation of the education system, primarily through the objects of the SE Act and the introduction of guiding principles.

Anti-discrimination protections typically address individual rights and remedies against exclusion or inequality. In some cases, we have identified that anti-discrimination protections for students with disability could be clearly referenced in the SE Act, but have also noted where they relate to recommendations made by the LRCWA and could instead be actioned through the EOA. However, we have not attempted to determine the most appropriate legislative instrument to provide for these protections because our terms of reference are limited to examining the SE Act, and do not extend to detailed consideration of the complementary roles of these legal frameworks in strengthening access and inclusion of students with disability. Accordingly, we suggest government give further consideration to the appropriate legislative pathway to provide for these protections.

In addition to the above, we raise two additional matters for further consideration. Research and community sentiment strongly support change in these two areas, however each requires further policy mapping to determine whether these matters would be best addressed through policy or legislative reform. The two additional matters are as follows:

- **Flexible arrangements:** explore options for providing entitlements for school students to engage in flexible arrangements for the location of their learning, including for some learning to occur at home.
- **Roles and responsibilities:** explore whether there is benefit in having specific roles and responsibilities relating to inclusive education.

Introduction

Schools strive to provide each student with a quality education that will be their stepping stone to a full life, where they can maximise their potential as individuals and as contributing citizens. The SE Act was written more than 25 years ago and there is concern that the Act no longer reflects contemporary understandings, and community expectations, for students with disability.

In December 2023, the Hon. Dr Tony Buti MLA, Minister for Education, announced a review of the SE Act to identify opportunities to strengthen access and inclusion for students with disability. The 12-month review commenced in January 2024 and was independently led by an Expert Panel and Advisory Council, with secretariat and project support from the Department of Education.

This report is the review's Final Report, drafted on behalf of the Expert Panel and Advisory Council.

Relevance to the Disability Royal Commission

The review complements the WA Government's response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (hereafter referred to as Disability Royal Commission).

The WA Government has 'accepted' or 'accepted in principle' 100 of the 132 recommendations that are applicable to WA. As part of the WA Government's official response to the Disability Royal Commission, three recommendations 'accepted in principle' were explicitly identified as being subject to the analysis and findings of this review:

- 7.1. Provide equal access to mainstream education and enrolment
- 7.2. Prevent the inappropriate use of exclusionary discipline against students with disability
- 7.11. Stronger oversight and enforcement of school duties

The review process identified several additional Disability Royal Commission recommendations relevant to the SE Act, that could be actioned or partly actioned through implementing the recommendations of this review, including:

- 7.3. Improve policies and procedures on the provision of reasonable adjustments to students with disability
- 7.6. Student and parental communication and relationships
- 7.9. Data, evidence and building best practice
- 7.10. Complaint management
- 6.35, 6.36, 6.39, 6.40. Restrictive practices

Context

All recommendations are based on five key components:

- **The Review's Terms of Reference**
- **Research packages**
- **Consultation findings**
- **Deep dive interviews with children and young people**
- **Considerations by the Expert Panel and Advisory Council**

Terms of reference

The Terms of Reference have guided the work of the Expert Panel and Advisory Council. Most relevant to the recommendations are the purpose and scope of the review which provide direction on which elements of the SE Act can be considered for reform. **Appendix 1** outlines the complete Terms of Reference for the review.

Purpose

The purpose of the review is to identify any barriers to access and inclusion within the SE Act and to make recommendations for change.

The review aims to make recommendations to:

- improve the inclusion of students with disability within school settings
- improve the school experience of children with disability
- make clearer the rights of children and families
- help schools better understand their responsibilities
- make sure the language, terms, and definitions match modern expectations and understandings of disability
- better match the SE Act with other laws and policies.

Scope

The scope of the review is to examine every section of the SE Act to find barriers to, or opportunities to improve, access and inclusion for students with disability. This includes identifying any gaps in the legislation where it could be useful to introduce a position.

The review identified seven initial areas for potential reform, largely informed by the findings and recommendations of the Disability Royal Commission. These seven areas are as follows:

- right to enrol
- definition of disability
- right to teaching and learning adjustment
- requirements for schools to consult with children and families
- the role and function of Disability Advisory Panels
- restrictive practices
- better alignment to the CRPD.

Other elements in scope for the review include exploring:

- how the SE Act relates to other state, national, and international policies and instruments
- what can be learnt from research on the best ways to improve access and inclusion
- what can be learnt from other Australian states and territories, as well as other countries
- if there are any policies or regulations that may be impacted by any of the recommendations
- the reflections and advice that people have already shared, including the many perspectives shared through the submissions to the Disability Royal Commission.

Research Packages

The recommendations consider the findings of three core research packages produced during the research phase of the review.

The **Legislative Scan Package** identified learnings from other jurisdictions and highlighted where WA's SE Act differs from the equivalent legislation in other places. The scan included all Australian states and territories, as well as Canada (Nova Scotia and New Brunswick), Italy, Ireland, Portugal, and New Zealand.

The **Government-Commissioned Evaluations Package** identified learnings from reviews, reports, inquiries, and evaluations across Australia on inclusive education to identify aspects of legislation considered important for contemporary and effective inclusive education systems. This included Australian Government parliamentary inquiries, state and territory parliamentary inquiries, and government-commissioned independent research and reports.

The **Policy Landscape Package** identified the key instruments that provide obligations (legal or otherwise) regarding the education of children with disability and what the obligations are. This included the CRPD, Australia's DDA and DSE, and WA's EOA, and *School Curriculum and Standards Authority Act 1997* (WA). This package also explored the possible future landscape, considering the current reforms underway in WA and WA Government responses to the Royal Commission recommendations.

Consultation findings

Across June and July 2024, the Expert Panel and Advisory Council directed the drafting of a Discussion Paper based on the learnings from the research phase. The paper outlined 13 key areas of potential reform in the SE Act and was the basis of the consultation phase.

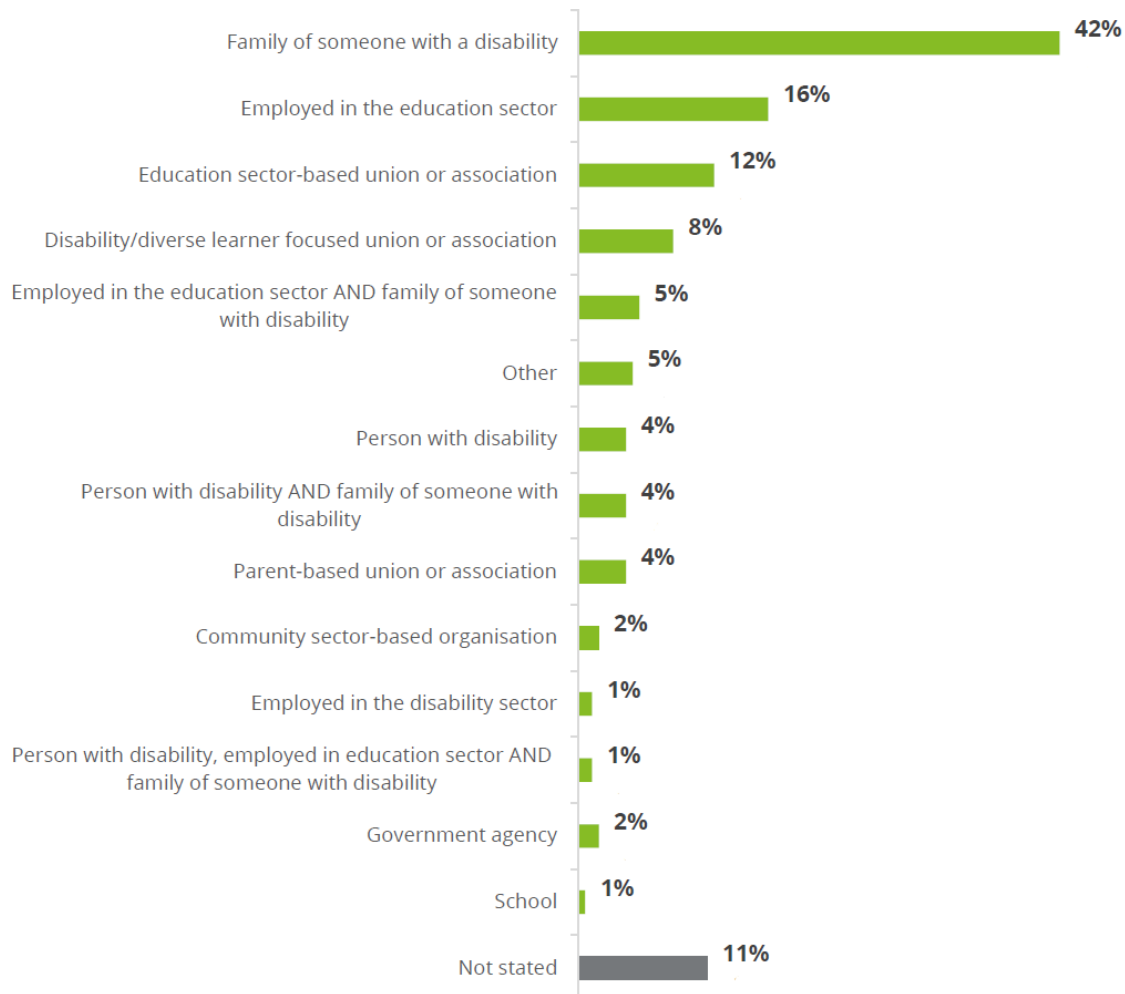
Appendix 3 outlines the review's consultation approach and stakeholder participation.

The consultation phase ran from 20 August to 4 October 2024 and involved:

- publication of the Discussion Paper and its various accessible formats (Easy Read, language translations, and video with Auslan interpretation) on the Department of Education's public-facing website
- public invitation for submissions
- options to provide submissions via an online form, email address, or phone number
- over 30 face-to-face sessions led by the Chair of the Expert Panel, Professor Andrew Whitehouse, and attended by over 280 participants. Sessions included:
 - individual sessions with priority stakeholders such as key government departments, advisory councils, and the WA Student Council

- round table discussions with groups of key stakeholders such as teacher and principal unions and associations
- public information sessions in Perth, Bunbury, Geraldton, Broome, and La Grange/Bidyadanga. Sessions in Broome and La Grange were led by the Department of Education's Kimberley Regional Office.
- commissioning paid submissions from three key organisations identified by the Expert Panel – the Centre for Inclusive Education (part of Queensland University of Technology), First People's Disability Network, and Inclusive Educators Australia.

Submissions were provided by members of the public, disability representatives or advocacy organisations, government agencies, and unions and associations. The below chart provides a broad breakdown of the stakeholders who provided submissions.



All submissions were collated, themed, and analysed by Deloitte Access Economics. Deloitte produced a submission database and dashboard, and a report outlining the key themes and findings, and presented key findings directly to the Expert Panel.

Deep dive interviews with children and young people

The review commissioned the deep dive engagement of school-aged children and young people with disability. This work was led by a partnership between the Youth Disability Advocacy Network (YDAN) and The Australian Centre for Social Innovation (TACSI). The key findings of this consultation have been incorporated into this Final Report.

The review also directly consulted the WA Student Council and received numerous submissions from students, including the student-led group Student Alliance for Inclusion (Sa4i).

Considerations by the Expert Panel and Advisory Council

Both the Expert Panel and Advisory Council led the review by guiding:

- the review's Discussion Paper and Easy Read version
- the review's Interim Report, presented to the Minister in November 2024
- the review's Final Report.

In guiding this work, the Expert Panel and Advisory Council met regularly to consider how the findings from the research packages, consultation process, and deep dive interviews with children and young people could inform recommendations for legislation reform.

Specific considerations raised by members of the Expert Panel and Advisory Council have been included throughout this report.

Limitations

The recommendations made in this report are considered a critical pathway to inclusive education in WA. However, the review acknowledges that for legislative reform to be successful, it must be supported by appropriate resources, policies, and culture.

Throughout the consultation process, many stakeholders raised challenges that exist within the education system that may be barriers to the success of any legislative reform. These barriers were often grounded in matters relating to resourcing, funding, class sizes, and a disconnect between legislation or policy, and practices, often attributed to a lack of understanding, cultural attitudes regarding disability and education, and insufficient access to useful and appropriate information and professional development opportunities.

The recommendations in detail

The next section of the report explores the 15 topic areas that emerged during the review. Each topic area contains the following sections:

- **Background:** outlines the current state of the SE Act and whether the Discussion Paper and consultation explicitly raised this topic.
- **Research:** outlines the key findings from the research.
 - Research packages: the three packages commissioned during the review's research phase.
 - Consultation analysis: from the face-to-face consultation sessions and the analysis of the 201 public submissions.
 - Deep dive interviews with children and young people.
 - Considerations by the Expert Panel and Advisory Council.
- **Findings:** summarises whether the research identified barriers to access and inclusion for students with disability.
- **Recommendations:** presents recommendations, as well as 'ideas for actioning' the recommendations.

Objects of the *School Education Act 1999*

Background

Objects give a broad overview of the purpose of an Act and what it hopes to achieve. Section 3 of the SE Act outlines the current objects. The primary role of the objects is to provide education to children during their compulsory school years. The review's Discussion Paper asked for comment on whether the objects should be changed.

Research

Research packages

Almost all other Australian states and territories have more expansive objects for their equivalent legislation.

This includes objects relating to inclusion, supporting all children and young people to reach or maximise their potential, and providing students with skills and capabilities to fully and meaningfully participate in society and their communities.

Consultation analysis

Of the public submissions that responded with a view on whether or not the objects should change, 92% expressed that the objects should change.

Stakeholder group	Percentage that expressed that the objects should change*	Key themes raised by the stakeholder group
Families of those with a disability	97%	<ul style="list-style-type: none">• Objects should ensure access, participation, and inclusion of students with disability in all schools.• Objects should foster greater collaboration – between families, students, school staff, and specialists.• Objects should enable an individualised approach to learning.• Objects should prioritise student wellbeing.
Those employed in the education sector	84%	<ul style="list-style-type: none">• There is a need for additional resources and support to ensure an inclusive environment.• Opportunity to consider alignment of Objects with key human rights instruments, such as the UNCRC and UNCRPD.• Objects should include the right to inclusive education.

*of those who responded with a view on whether or not the objects should change (i.e. this does not include those who were unsure or did not express an opinion).

Deep dive interviews with children and young people

Children and young people said that the Act should exist to make sure that:

- all schools are inclusive and accessible to all
- all children and young people are supported to learn in an environment that works for them

- schools remove barriers to learning
- schools play a leading role in promoting, creating, and driving an inclusive future in society.

Findings

The operational focus of the objects, particularly the omission of specific reference to inclusive education, is an indirect barrier to access and inclusion of students with disability.

Recommendations

Recommendation 1

The objects of the *School Education Act 1999* (WA) should be expanded to establish a framework for inclusive education in which schools empower all students to learn, participate and thrive.

Ideas for actioning this recommendation

The objects could be expanded to:

- make specific reference to 'inclusive education', as defined in Article 24 of the CRPD
- cover that children should participate in decisions that affect them and should be supported to do so
- cover that education should support each child to fully develop their academic, social, and emotional skills
- cover that education is also about children developing the skills and capabilities needed for full societal and community participation.

To support the recommendation, and provide clarity for those with functions under the SE Act, there could be policies, procedures, or requirements relating to the objects.

Principles of the *School Education Act* 1999

Background

Acts often include principles. They are the core values that inform the purpose and intent of an Act and provide a robust foundation for embedding positive obligations, making them an appropriate mechanism to steer systemic frameworks.

Principles are used to guide how an Act is to be interpreted. Such an approach ensures that positive obligations are not merely aspirational but are embedded within the legal architecture to shape and sustain the policies and practices necessary to achieve the objects of the legislation. Currently, the SE Act does not have any principles. The review's Discussion Paper asked whether principles should be introduced to the SE Act.

Research

Research packages

All other Australian states and territories have principles in their equivalent legislation.

This includes principles relating to:

- every child's right to high-quality education
- lifelong learning, and community and societal participation
- the best interests of the child
- consultation and collaboration.

Consultation analysis

Of the public submissions that responded with a view on whether or not principles should be introduced, 93% expressed that principles should be introduced.

Stakeholder group	Percentage that expressed principles should be introduced*	Key themes raised by the stakeholder group
Families of those with a disability	96%	<ul style="list-style-type: none">• Principles should be adopted to ensure the right to an inclusive education.• Principles should foster greater collaboration – between families, students, school staff, and specialists.
Those employed in the education sector	86%	<ul style="list-style-type: none">• Principles should be aligned to CRC, CRPD, DSE, or DDA• Principles should be adopted to ensure the right to an inclusive education.• Principles should foster greater collaboration – between families, students, school staff, and specialists.

*of those who responded with a view on whether or not principles should be introduced (i.e. this does not include those who were unsure or did not express an opinion).

Deep dive interviews with children and young people

Children and young people said that people using the SE Act should always have the following in mind:

- All students are individuals with unique learning needs.
- Everyone is responsible for inclusive education.
- Things will get better if we listen, learn, and adapt together.
- The school system is responsible for addressing the barriers to learning that it creates.
- Schools play a vital role in shaping the lives of students in school and beyond.
- Students should be involved in decisions made about them.

Findings

The omission of principles is a missed opportunity to guide the education system towards the values and practices of access and inclusion for all children, including students with disability.

Recommendations

Recommendation 2

Introduce principles to the *School Education Act 1999* (WA) that value the school experience of all students, including the value of inclusive education for students with disability.

Ideas for actioning this recommendation

The principles could include:

- all children can learn
- all children have a right to be included in high-quality education
- valuing the best educational interests of the child
- barriers to accessing inclusive education should be anticipated and removed through universal measures for all students and individual measures for individual students
- the best educational interests of the child should be central to decision-making
- the best educational outcomes are achieved when parents, families, schools, communities, and government and non-government organisations collaborate and work together
- preserving and enhancing children's connection to culture and cultural safety.

To support the recommendation and provide clarity for those with functions under the SE Act, there could be policies, procedures, or requirements relating to the principles.

Defining disability

Background

Section 4 of the SE Act defines the term 'disability'. This term is used for various provisions under the SE Act which are meant to apply to students with disability, such as Sections 73, 84, 86, and 92. 'Disability' is currently defined in accordance with a medical model and is limited to permanent conditions. The medical model frames physical, mental, or sensory differences as deficits or aspects of the individual that need to be fixed or managed with medical or health care. The review's Discussion Paper asked whether the definition of 'disability' should be changed.

Research

Research packages

The key findings from the research packages:

- The SE Act's definition of disability is different to the definition within the DDA and the DSE which sits under the DDA and applies to all schools in WA. The DDA (and DSE) definition is broader and includes temporary disability. These differences can be confusing for WA schools as schools must be aware of when they must use the DDA and DSE definition, versus when they must use the SE Act's definition.
- The EOA is currently under reform in response to a review by LRCWA, which recommended that the EOA should define disability in a way similar to the DDA definition. To date, these reforms have not been introduced to Parliament.
- The CRPD frames the experience of disability as something that happens when people with impairments face attitudinal and environmental barriers that stop them from fully taking part in society like everyone else.

Consultation analysis

Out of the public submissions that responded with a view on whether or not the definition of disability should be changed, 91% expressed that the definition should be changed.

Stakeholder group	Percentage that expressed the definition of disability should change*	Key themes raised by the stakeholder group
Families of those with a disability	94%	<ul style="list-style-type: none">• Definition of disability should be broadened to consider the social model of disability and emphasised the importance of including temporary and imputed disability.• There is a need to move away from the medical model of disability, which may limit eligibility for appropriate help or support.• Opportunity to align the definition with the CRPD, the DDA, or other key Human Rights or legislative instruments.
Those employed in the education sector	87%	<ul style="list-style-type: none">• Definition of disability should be broadened to consider the social model of disability and emphasised the importance of including temporary and imputed disability.• Definition of disability should promote inclusion and equity – with the definition being a key enabler to the promotion of equitable access to education.

*of those who responded with a view on whether or not the definition of disability should be changed (i.e. this does not include those who were unsure or did not express an opinion).

It should be noted that many stakeholders incorrectly assumed that the definition of 'disability' in the SE Act was explicitly linked to funding.

Deep dive interviews with children and young people

The following was important to children and young people when defining disability:

- equity between families who can and cannot afford or access diagnosis
- catering to the diversity of the disability community
- less focus on diagnosis
- the school community's understanding of 'disability' needs to broaden
- training so that schools understand disability.

Findings

The current definition of 'disability' is a barrier to access and inclusion as it:

- frames disability in a medical/deficit model, which is a barrier to holding systems responsible for addressing the barriers they create
- focuses on diagnosis, which is a barrier for children whose families may not have the ability to access specialist health professionals
- is too narrow and does not capture the diversity of disability and the impact of the range of barriers experienced by people with disability.

Recommendations

Recommendation 3

Reframe the definition of 'disability' within the *School Education Act 1999* (WA) so that it aligns to the social model of disability.

Ideas for actioning this recommendation

The definition should:

- be based on the conceptualisation of disability used by the CRPD in Preamble (e) and Article 1, which emphasises the *interaction* between impairments and various social and environmental barriers that hinder full and effective participation in society on an equal basis with others.
- seek to align better to other definitions that apply to disability in education, such as that in the DDA.

Inclusive education

Background

Inclusive education is a term used in various contexts and often refers to education settings that embrace diversity and meet the needs of a diverse cohort of students with various characteristics and attributes, backgrounds, experiences, needs, and identities, including students with and without disability.

The SE Act does not currently include the term or concept of inclusive education. Inclusive education was not a specific question or topic in the Discussion Paper but was captured as a core theme throughout.

Research

Research packages

The Disability Royal Commission dedicated Part A of Volume 7 to 'Inclusive Education' and made 15 specific recommendations targeted at Federal, State, and Territory governments responsible for education services. The WA Government has released its position on the recommendations, many of which are referenced in this report.

Article 24 of the CRPD and General Comment No. 4 (The Right to Inclusive Education) provide authoritative definitions and a framework for understanding inclusive education both as a right of individuals and as a duty of governments. Under the CRPD, inclusive education is recognised as a fundamental human right of all learners and is grounded in the principles of all students learning together, supported by equal access and the elimination of barriers.

Australia's Disability Strategy 2021-2031 outlines a policy priority to *Build capability in the delivery of **inclusive education** to improve educational outcomes for school students with disability* and clarifies that 'students with disability have a right to access and participate in education on the same basis as students without disability, in an environment free from bullying, harassment or exclusion.'

WA's State Disability Strategy 2020-2030 outlines a strategic policy area of **Inclusive education and training settings** and outlines that 'Students with disability thrive when they and their families are in a welcoming environment and are provided with the same educational and social opportunities as students without disability. Inclusive and integrated education settings are also important to shift community attitudes about disability in the longer term by supporting inclusive and diverse learning environments from early childhood.'

Consultation analysis

While not a topic highlighted in the Discussion Paper, the concept of 'inclusive education' was raised in numerous submissions. Almost 20% of submissions that wanted the objects of the Act to change suggested that the objects should be expanded in some way that would reflect an explicit right to high-quality inclusive education.

Common themes raised by stakeholders include:

- access and inclusion is everyone's responsibility, and should be reflected across all roles and responsibilities outlined in the SE Act
- system change requires key decision makers over systems (such as the Minister and CEO) to have explicit responsibility for designing, implementing, and monitoring inclusive education principles and practice

- executing functions relating to access and inclusion requires upskilling in training and understanding across the government and non-government education systems. This includes training on inclusive education and disability.

Deep dive interviews with children and young people

The following was important to children and young people regarding inclusion:

- schools need to be shining examples of how to create an inclusive community and society
- schools must be supported and held accountable by the government to design, produce and deliver universal learning environments
- all children and young people should leave school valuing diversity
- there should be less variation between schools in the value placed on access and inclusion.
- all new schools, and new investments in existing schools, must be made with the full diversity of the student population in mind, including students with disability.

Considerations by the Expert Panel and Advisory Council

Advisory Council members raised:

- inclusive education means that all students learn together, where 'students with disability get to sit next to students without disability' in the classroom, and are included in recess and lunch activities
- for inclusive education to be effective, there must be a consistent culture of inclusivity across the whole school community – including school counsellors, chaplains, and nurses.

Findings

The omission of the term and value of 'inclusive education' in the SE Act is a barrier to a common understanding of, and focus on achieving, inclusive education at system level and realising the educational rights of students with disability.

Recommendations

Recommendation 4

Introduce the concept of 'inclusive education', defined in line with Article 24 of the Convention of the Rights of Persons with Disabilities, and enshrine it in the *School Education Act 1999* (WA) through reference in the objects and principles.

Ideas for actioning this recommendation

'Inclusive education' could be defined:

- in line with Article 24 of the CRPD and General Comment No. 4
- by clarifying that inclusive education is distinct from other forms of education, as explained in General Comment No.4, and goes beyond simply providing physical access to classrooms; it focuses on creating full and equal participation for all students in environments that reflect and respond to diversity.

To support the recommendation and provide clarity for those with functions under the SE Act, there could be policies, procedures, or requirements relating to inclusive education.

The paired concepts of universal measures and individual measures could be introduced to promote and support the progression and realisation of inclusive education at system level:

- Universal measures are about proactively assuming student diversity in all approaches, processes, and practices, with a view to catering for all people, to the greatest extent possible, rather than catering to the majority of people or those whose requirements are considered to be ‘typical’.
- Universal measures could be applied to policies, procedures, and requirements around the planning, design, and implementation of environments, services, and programs.
- Individual measures are about reactive responses to meet the requirements of a particular person when universal measures are insufficient, and refers to measures which are tailored to the individual learner.
- Individual measures could be applied to policies, procedures and requirements around adaptations to curriculum delivery, learning materials, and physical space.
- Portugal’s Inclusive Education Act (Decree Law 54/2018) provides a tiered framework for universal and individual measures to support learning and inclusion of all students, which could be drawn from.
- Article 2 of the CRPD outlines ‘universal design’, in addition to the general requirement to ensure accessibility under Article 9, and the discussion in General Comment 4 outlines its application in the context of Article 24 and inclusive education.

Right to enrol

Background

Under Section 78 of the SE Act, a child's right to enrol at their local government school is limited by two things:

- 1) the child lives within the local intake/catchment area
- 2) the school has an appropriate educational programme.

Section 86 of the SE Act explicitly provides that an 'appropriate educational programme' can be applied to determine enrolment decisions when students with disability are seeking to enrol at their local school, and provides grounds to deny enrolment on the basis of disability.

The review's Discussion Paper asked whether the right to enrol should be changed.

Research

Research packages

Key findings from the research packages:

- WA is the only state/territory in Australia where the law restricts enrolment at the local government school based on whether an 'appropriate educational programme' is available.
- The CRPD outlines that children with disability must not be excluded from the general education system based on disability. They should be able to access the schools in the communities in which they live, and these schools should be inclusive.
- The DDA and EOA provide that it is unlawful for schools to refuse admission or limit benefits to students because of their disability, unless to do so can be demonstrated to impose an 'unjustifiable hardship'.
- The EOA is currently under reform in response to a review by the LRCWA, which recommended that the EOA should make it clear that it is also unlawful to discriminate when evaluating and selecting student applications.
- Recommendation 7.1 of the Disability Royal Commission is that states and territories should amend their education Acts to create a legal entitlement for students with disability to enrol in a local mainstream school, ensure record keeping, and establish an independent review process. The WA Government's response to this recommendation was 'accept in principle'.
- The Disability Royal Commission has also recommended in Volume 4 of the Final Report strengthening federal anti-discrimination protections that apply in the context of education, and which are relevant to the rights of students with disability to access education on an equal basis with others.

Consultation analysis

Of the public submissions that responded with a view on whether or not there should be changes to the SE Act's provisions on enrolment, 86% expressed that the enrolment provisions should be changed.

Submissions highlighted that restricting enrolment based on an 'appropriate educational program' is a barrier for students with disability to enrol at their local school as this can be used to limit enrolment on the basis of disability.

Stakeholder group	Percentage that expressed the enrolment provisions should change*	Key themes raised by the stakeholder group
Families of those with a disability	92%	<ul style="list-style-type: none"> • Clear right for students with disability to enrol and attend the local school (regardless of disability or cultural background). • Requirement for local schools to provide reasonable adjustments and an inclusive environment.
Those employed in the education sector	77%	<ul style="list-style-type: none"> • Clear right for students with disability to enrol and attend the local school (regardless of disability or cultural background). • There is a need for additional resources to ensure schools can make reasonable adjustments for students with disability.

*of those who responded with a view on whether or not there should be changes to the SE Act's provisions on enrolment (i.e. this does not include those who were unsure or did not express an opinion).

Additional themes raised during consultation include:

- a desire for the entitlement to enrol on an equal basis as other children, to also apply to non-government schools, including those within boarding schools, as this can be a significant barrier for regionally isolated children with disability to access education within the non-government sector
- the importance of the accessibility of school buses, which are often critical to students accessing school, particularly in regional/rural settings.

Deep dive interviews with children and young people

Children and young people talked about enrolment, reasonable adjustments, and flexibility being interdependent, and stressed the importance of seeing them as linked. They raised the following as important when considering enrolment:

- seeing your neighbourhood friends easily before and after school, and while travelling to and from school is important for feelings of safety and social development
- shorter trips to a local school mean more time to sleep and rest before the day
- government should support every school to cater for the needs of children and young people with disability
- the decision of where to attend school, or enrolment in local school, needs to centre the student and family's decision
- the decision whether a child can attend school should never be driven by school grade average or statistics.

Considerations by the Expert Panel and Advisory Council

Expert Panel members raised:

- providing a universal right to enrol is consistent with the principle that education must be free from any form of discrimination, and should be supported by significant changes to the education system including, but not limited to, increased funding, enhanced teacher training, upgraded infrastructure, and greater cultural and policy alignment within education systems with the principles and practices of inclusive education

- the Disability Royal Commission acknowledged ‘gatekeeping’ as a discrimination issue for students with disability and recommended (Recommendation 7.1) that the right to enrolment at a local intake school should only be subject to ‘unjustifiable hardship’. Instead of aligning to this, the review recommends that the entitlement to enrol should only be subject to the location of the child’s residence and not the child’s individual attributes, in particular any protected attributes such as disability. Under the CRPD, ‘unjustifiable hardship’ (or undue burden) is a test linked to reasonable adjustments only (i.e. it is not linked to enrolment). The panel expressed that the ‘unjustifiable hardship’ should not be applied to enrolment decisions as it can facilitate gatekeeping and other discrimination. The question of the school’s duty to provide reasonable adjustments to a child who is enrolled will be subject to the applicable limitations and should be treated separately from the right to enrol
- providing children the entitlement to receive an education in the ‘common learning environment’ could be more consistent with the right to inclusive education under Article 24 of the CRPD, particularly in the context where local-intake schools may operate separate environments for students with disability. Some Canadian jurisdictions, such as the provinces of New Brunswick and Nova Scotia, have adopted the concept of the ‘common learning environment’, which could be drawn from
- non-government schools requesting certain information, such as NAPLAN scores, to inform enrolment decisions may indirectly discriminate against students with disability, who may have low NAPLAN scores, or may not have completed NAPLAN testing.

Advisory Council members raised:

- personal experiences of being at a non-local-intake school, and the impacts of a multi-step public transport journey and the family having to move house to be closer to the school
- aging infrastructure or infrastructure built without consideration for universal use and accessibility is a significant barrier to providing a universal right to enrol.

Findings

The enrolment qualifier of the availability of an ‘appropriate educational programme’ is counter to the value of inclusive education, and acts as a barrier for students with disability to enrol in and access their local government school.

Recommendations

Recommendation 5

The *School Education Act 1999* (WA) should ensure that disability is not a consideration for denial of enrolment in WA schools.

Ideas for actioning this recommendation

Actioning this recommendation could involve:

- removal of 78(1)(b) from the SE Act so that a child’s entitlement to enrol at their local intake school would be subject only to whether the child lives in the intake area
- considering whether the term ‘appropriate educational programme’ should be removed from the SE Act or defined in a way that does not operate as a limitation on access to students on the basis of disability. ‘Educational programme’ is defined in the SE Act, however ‘appropriate educational programme’ is not, and can therefore be used to deny students with disability enrolment in their local school

- considering whether there should be responsibilities on non-government schools to ensure they cannot place barriers on enrolment that would discriminate against or disproportionately and adversely impact children with disability – such as separate processes, decision-making, academic requirements, inaccessible facilities, or lack of support systems
- considering whether there should be responsibilities on community kindergartens to ensure that they cannot place barriers on enrolment that would discriminate against or disproportionately and adversely impact children with disability
- considering whether an immediate interim policy measure should be put in place to provide clarity on what an ‘appropriate educational programme’ is, and how the term can be applied to students with disability.

Reasonable adjustments

Background

‘Reasonable adjustment’ or ‘adjustment’ is a term derived from anti-discrimination principles and means to make changes so that people with disability can participate on the same basis as other people.

All schools across Australia have reasonable adjustment obligations under the DDA and DSE. The SE Act does not refer to reasonable adjustments, however Section 73 of the SE Act outlines a process for a principal to decide the content and implementation of the educational programme for a child with disability. Section 73 only applies to students with disability at government schools and provides that the principal is to consult with the parent, teachers, and ‘if appropriate’, the child. Subject to the direction and control of the CEO, the principal makes the final decision.

The review’s Discussion Paper asked whether the SE Act should be changed regarding reasonable adjustments.

Research

Research packages

Key findings from the research packages:

- The Australian Capital Territory and the Northern Territory both have education legislation which explicitly provides for reasonable adjustments.
- The DDA is currently under review by the Australian Government Attorney-General’s Department. The review is in response to the Disability Royal Commission, which recommended changes to the DDA including:
 - replacing all references to ‘reasonable adjustments’ with ‘adjustments’ (Recommendation 4.25)
 - introducing a positive duty to make adjustments for a person/people with disability (Recommendation 4.26).
- The DSE is likely to be subject to reform to fully implement recommendations from a 2020 review of the DSE, as well as recommendations made by the Disability Royal Commission, noting that the next period review of the DSE is to take place in 2025. This is expected to involve the introduction of further obligations for consultation, and including children and parents in decision-making.
- The EOA is currently under reform in response to a review by the LRCWA, which recommended that the EOA should introduce a positive duty to make reasonable adjustments due to disability, pregnancy, breastfeeding, family responsibilities, or carer obligations and possibly extending this further to all protected attributes under the legislation.
- The WA Government has ‘accepted in principle’ Recommendation 7.3 of the Disability Royal Commission. This recommendation outlines that states and territories should have processes or guidelines for identifying, planning, implementing, and evaluating adjustments, as well as record keeping requirements.

Consultation analysis

Of the public submissions that responded with a view on whether or not there should be changes to the SE Act in regard to reasonable adjustments, 96% expressed that the Act should be changed.

Stakeholder group	Percentage that expressed the SE Act should change regarding reasonable adjustments	Key themes raised by the stakeholder group
Families of those with a disability	100%	<ul style="list-style-type: none"> • Need for the SE Act to include a clear right for reasonable adjustments. • Adjustments should be individualised based on the student's needs (for example, through IEPs). • Need for adjustments to be consistent with the Universal Design for Learning.
Those employed in the education sector	98%	<ul style="list-style-type: none"> • Additional resources (i.e. specifically as it relates to funding under the IDA and additional staff) to provide reasonable adjustments – with the current supports reported as being inadequate. • Need for the SE Act to include a clear right for reasonable adjustments. • Need for clear processes, guidelines, definitions, and accountability as it relates to adjustments.

*of those who responded with a view on whether or not there should be changes to the SE Act in regard to reasonable adjustments (i.e. this does not include those who were unsure or did not express an opinion).

Submissions highlighted barriers to accessing adjustments in education, including a lack of understanding, lack of consultation, and inconsistent or undefined processes. Submissions also identified opportunities to overcome these barriers including enshrining the right to reasonable adjustments in the SE Act, defining key concepts (e.g., reasonable adjustments), and creating a transparent and collaborative process for identifying, planning, and implementing reasonable adjustments. Submissions also noted the importance of accountability and monitoring reasonable adjustments. This also includes accountability for when students are denied support.

Other key themes raised among stakeholders include:

- obligations for reasonable adjustments must be supported by an adequate funding system and improved infrastructure and technology (some stakeholders noted that in regional WA, access to internet can be a barrier to using some assistive technologies)
- to be most effective and consistent for students, adjustments should extend to matters outside of the SE Act such as school buses, boarding schools, and assessments for National Assessment Program such as Literacy and Numeracy (or NAPLAN) and Australian Tertiary Admission Rank (or ATAR)
- obligations for reasonable adjustments must be supported by training.

Deep dive interviews with children and young people

Children and young people talked about enrolment, reasonable adjustments, and flexibility being interdependent and stressed the importance of seeing them as linked. They raised the following as important when considering reasonable adjustments:

- it should be seen as an opportunity for teachers and schools to help their students learn
- everyone must be on the same page and understand the adjustment so that students are not required to continually self-advocate to different staff (the burden felt by children and young people to self-advocate was a consistently strong theme across all topics)
- it should be thought of as a way for every child to have the same opportunity to learn in the classroom and school environment. This is a matter of equity, not equality
- some things labelled as reasonable adjustments are just basic human needs
- assumptions should not be made as to the adjustments needed for a particular diagnosis or disability. Schools need to provide options and work with children and families to learn what works best, regularly check in with children and young people, and be prepared to change their adjustments as their needs change over time
- it should be normalised in schools to reduce stigma, shame, and fear of asking for or using them
- children and young people are the experts of what is needed to help them learn. They should be involved in any discussions about reasonable adjustments.

Considerations by the Expert Panel and Advisory Council

Expert Panel members raised:

- Section 73 is considered outdated and does not reflect contemporary inclusive education practice that envisages students with disability accessing the learning environment and standard curriculum alongside their non-disabled peers, with adjustments and supports to ensure their meaningful participation. The reference to the 'educational programme for a child with disability' suggests a separate programme
- the scope of the reasonable adjustment provision must align to existing legal frameworks in accordance with anti-discrimination laws, noting that the EOA is also under reform. The panel supports expanding the scope of reasonable adjustments beyond students with disability, in line with Recommendation 66 of the LRCWA to amend the EOA
- while the LRCWA report reviewing the EOA proposed retaining the qualification of 'reasonable' in relation to the duty to provide adjustments, the Disability Royal Commission noted that 'reasonable' operates as an additional limitation on the duty in addition to 'unjustifiable hardship' and should be removed. The Disability Royal Commission's approach more closely aligns to the CRPD, which does not apply 'reasonable' as a term of limitation
- the promotion of universal and individual measures in the SE Act represents positive obligations to ensure education is accessible and inclusive, while the concept of reasonable adjustments provides important additional protections against discrimination on the basis of disability. Both dimensions are complementary and necessary to safeguard and promote the right to education of students with disability, and are encompassed in Article 24 of the CRPD
- the panel has not formed a view as to whether some or all of the recommendations relating to reasonable adjustments should be actioned through the SE Act or the EOA as the terms of reference for this review are limited to examining the SE Act, and do not extend to detailed consideration of the role of other legal frameworks in strengthening access and inclusion of students with disability – such as anti-discrimination laws

- a failure to provide required reasonable adjustments can impact a student's attendance and contribute to school refusal or 'school can't'. Panel members raised that the SE Act's provisions on penalties for parents and students for breaches of non-attendance (Section 38), should consider the extent to which reasonable adjustment requirements have been met.

Advisory Council members raised:

- reasonable adjustments should apply to staff resourcing too, to capture positions such as education assistants, school nurses, and the duty teacher who is supervising recess and lunch breaks
- reasonable adjustments need to cover time on-site that is not in the classroom – such as recess, lunch, and time before, after, and within school hours as students are moving through the school campus. Members raised that these times can be particularly challenging for people with sensory sensitivities.

Findings

Difficulty accessing appropriate and timely reasonable adjustments is a barrier for the inclusive education of students with disability. This is perpetuated by inconsistencies in:

- shared understanding of what reasonable adjustment means
- consultation with students
- communication between school staff
- processes for documentation and evaluation.

Recommendations

Recommendation 6

WA legislation should recognise the obligation to provide reasonable adjustments in education settings to avoid discrimination.

Ideas for actioning this recommendation

Actioning this recommendation could involve:

- actioning this through an amendment to Section 73 of the SE Act
- actioning this through the EOA, which is also currently under reform
- aligning the concept of reasonable adjustment to existing legal frameworks, such as the DDA and EOA (noting that the EOA is also under reform and may legislate a positive responsibility to make reasonable adjustments due to disability, pregnancy, breastfeeding, family responsibilities, or carer obligations, and possibly extending this further to all protected attributes)
- providing a legal obligation to make the reasonable adjustment unless doing so would impose an unjustifiable hardship. Consistent with the DDA, this should apply to both government and non-government schools.
- providing clarity on the term 'reasonable adjustments' by providing a non-exhaustive list. This could include:
 - adjustments to how learning is delivered and communicated
 - adjustments to physical space and infrastructure
 - adjustments to support transitions, including the transition from primary to secondary school
 - use of technology and communication tools
 - adjustments to curriculum delivery
 - flexible arrangements for the location of learning, which may allow, in appropriate circumstances, for some remote access or learning at home to take place
 - adjustments to enable equitable participation in non-classroom-based activities such as lunch and recess, and excursions
- providing a clear process for addressing complaints and disputes regarding reasonable adjustments
- considering whether the penalties for non-attendance (Section 38) should not apply in circumstances where:

- non-attendance has resulted from the failure of the school to provide reasonable adjustments, including providing these reasonable adjustments in a timely manner
- reasonable adjustment obligations have not been met by the school.
- considering whether there should be an obligation for boarding schools and residential colleges to ensure that suitable reasonable adjustments extend for the duration of their time in care
- considering whether the *School Curriculum and Standards Authority Act 1997 (WA)* could also be amended to reflect consistent reasonable adjustment provisions.

To support the recommendation and provide clarity for those with functions under the SE Act there could be policies, procedures, or requirements for the processes to consult on, identify, plan, implement, document, monitor, and evaluate reasonable adjustments.

Communication and consultation

Background

The SE Act contains provisions on communication and consultation with parents and students. Currently, this is limited to a small number of provisions. For example, Section 73 outlines that principals should talk with students 'if appropriate'. However it does not outline how to decide what is appropriate, what talking to students should involve, or how much weight should be given to the student's views when making decisions about education.

The review's Discussion Paper asked whether the SE Act should be changed regarding communication and consultation obligations.

Research

Research packages

Key findings from the research packages are:

- Other jurisdictions, such as Queensland, Tasmania, and South Australia, have provisions in their equivalent legislation that recognise actively involving children and young people in decisions that affect them.
- Both the CRC and the CRPD say that children have the right to share their views on things that affect them and that their views should be given due weight. 'Due weight' is decided by considering their age, maturity and their evolving capabilities. The CRPD adds that students with disability should get appropriate assistance to realise this right.
- Recommendation 2 of the Final Report of the 2020 Review of the Disability Standards for Education 2005, was for the DSE to be amended to set principles for how to consult with students and their families (this has not been actioned).
- Recommendation 7.6 of the Disability Royal Commission outlines improvements to consultation in Australian schools through:
 - the Australian Government amending the DSE to ensure students with disability can participate as fully as possible in an age-appropriate manner in decision making concerning their educational programs and the adjustments they require (this has not been actioned)
 - state and territory educational authorities updating their guidance and policies to improve student and parental communication and relationships (supported in principle by the WA Government).

Consultation analysis

Of the public submissions that responded with a view on whether or not there should be changes to the SE Act in regard to communication and consultation, 92% expressed that the Act should be changed.

Stakeholder group	Percentage that expressed the SE Act should change regarding communication/consultation*	Key themes raised by the stakeholder group
Families of those with a disability	98%	<ul style="list-style-type: none"> • Need for greater collaboration – between families, students, school staff, and specialists (including allied health professionals and other medical professionals). • Need for quality communication (timely, transparent, clear, and accessible) between schools and parents (as well as other collaborators). • Schools should have the responsibility to communicate with families regarding key decisions.
Those employed in the education sector	79%	<ul style="list-style-type: none"> • Need for greater collaboration – between families, students, school staff, and specialists (including allied health professionals and other medical professionals). • Need to consider the current capacity of school staff, with considerations around not adding further responsibilities to their already high workload.

*of those who responded with a view on whether or not there should be changes to the SE Act in regard to communication/consultation (i.e. this does not include those who were unsure or did not express an opinion).

Public submissions noted a need for greater collaboration – between families, students, school staff, and specialists (including allied health professionals and other medical professionals). Submissions also highlighted that consultation should be 'genuine collaboration' and that communication alone is insufficient.

Several submissions from those employed in the education sector reflected that the current communication process is adequate, with a need to not increase the responsibilities of school staff.

Other key themes raised among stakeholders include:

- class sizes impact a teacher's availability to consult, and teaching staff need suitable time to prepare for consultations
- some families believe suspension or exclusion incidents could have been avoided if they had been consulted or involved at key points.

Deep dive interviews with children and young people

Children and young people raised the following as important for communication and consultation:

- students should be at the centre of decision making around their needs and education
- schools need to have more of a proactive role in leading communication and valuing student voice to minimise the burden on students and families
- school communications should be accessible to parents and students
- key decisions about students need to be consistently documented and communicated to all relevant people in a school
- students, parents, and the school should meet regularly, whether or not the needs of the child change.

Considerations by the Expert Panel and Advisory Council

Expert Panel members raised:

- it is expected that the DSE will be amended to strengthen consultation and communication with parents and students, but the proposed scope is unclear, and given the anti-discrimination context, it may be anchored to decisions about reasonable adjustments in education
- consultation and communication requirements could be included in the SE Act or the EOA, depending on the proposed scope of those requirements.

Advisory Council members raised:

- transitions can be a heightened time of stress for students with disability; preparing for transitions well in advance is important for transitions to be successful
- the value of formalised parent-teacher interactions (e.g., regular parent-teacher meetings) and suggested that formalising these interactions in policy would benefit students with disability and their families.

Findings

Lack of communication, consultation, and collaboration between schools, parents, and students is a barrier to the access and inclusion of students with disability in education settings in the following ways:

- students feel disempowered
- students and parents feel it is up to them to lead communication which can lead to feeling like a burden and exhaustion
- the best outcomes are not achieved, or they are not achieved in the most efficient timeframe.

Recommendations

Recommendation 7

There should be explicit provisions addressing when and how schools should engage with children and their parent(s) in key decisions. This may be enacted through the *School Education Act 1999* (WA) or another legislative instrument.

Ideas for actioning this recommendation

The communication and consultation provisions could cover matters such as:

- the key points where schools should consult with the child and their parents, particularly points where there is potential for significant impact on the rights, well-being, educational access, or outcomes of the child
- that children should be supported in sharing their views and their views should be given due weight – in line with the wording and principles of the CRPD
- that communication and consultation should be accessible for the child and their parents
- that communication and consultation should be timely
- that it may be beneficial for specialists and allied health professionals to be involved in consultation
- that there is value in communication and consultation provisions consistently applying to government and non-government schools.
- aligning to Recommendation 7.6 of the Disability Royal Commission.

Breaches of discipline

Background

Sections 88-96 of the SE Act cover breaches of school discipline, suspensions, exclusions, and reviews of decisions. These sections apply to government schools only.

The term 'breach of school discipline' is defined as any act or omission that impairs the good order of the school.

The SE Act provides that disability is considered in circumstances where there are grounds for excluding a student with disability because they have disrupted the educational instruction of other students (see Section 91(b)). A student's disability is considered through a referral to a Disability Advisory Panel under Subsection 92(3)(b)). Disability Advisory Panels are discussed in the next section of this report.

Other than for matters linked to Section 91(b), the SE Act does not provide for any other instances where disability is considered in determining a breach of discipline.

The review's Discussion Paper asked whether the SE Act should be changed regarding discipline, suspensions, or exclusions.

Research

Research packages

Key findings from the research packages:

- Human rights obligations under the CRC and CRPD outline that:
 - schools cannot punish a student because of their disability
 - the best interests of the child should be a primary concern in all actions concerning children.
- The DDA and the EOA both provide that it is unlawful for schools to discriminate against a student on the grounds of the student's impairment by expelling the student or subjecting them to any other detriment.
- The Disability Royal Commission recommended:
 - Recommendation 4.23 – the DDA should be amended so that the onus be on the alleged discriminator to prove that they did not discriminate
 - Recommendation 7.2 – state and territory governments should review all instruments to ensure decisions to exclude consider the student's disability and that, before a student is excluded, certain steps are taken including consultation on an individual behaviour plan and reasonable adjustments (WA Government accepted this in principle).
- Victoria has Ministerial Orders made under its education legislation that require disability to be considered in disciplinary matters.
- In 2024, the Queensland government introduced a Bill with clauses requiring schools to make support plans for students with disability who have been suspended or are at risk of being excluded (the Bill did not pass).

Consultation analysis

Of the public submissions that responded with a view on whether or not there should be changes to the SE Act in regard to discipline, suspensions, or exclusions, 90% expressed that the Act should be changed.

Stakeholder group	Percentage that expressed the SE Act should change regarding discipline, suspensions, or exclusions *	Key themes raised by the stakeholder group
Families of those with a disability	93%	<ul style="list-style-type: none"> Disciplinary actions should consider and be responsive to, the underlying causes of behaviour challenges. Need for clear accountability when adopting disciplinary actions – including data collection, appeals processes, and regular review to ensure effectiveness and equity. Schools should employ proactive strategies and support, such as Behaviour Support Plans, to address the underlying causes of behaviour challenges and more appropriately support the students with disability.
Those employed in the education sector	86%	<ul style="list-style-type: none"> Disciplinary actions should consider and be responsive to, the underlying causes of behaviour challenges. Need for staff training and resources (e.g. EAs) to understand disciplinary actions.

*of those who responded with a view on whether or not there should be changes to the SE Act in regard to discipline, suspensions or exclusions (i.e. this does not include those who were unsure or did not express an opinion).

Public submissions consistently emphasised the importance of disciplinary actions considering, and being responsive to, the underlying causes of behaviour challenges. It was noted that schools should differentiate between behavioural challenges, triggers, unmet needs, and dysregulation. Stakeholders often expressed that it is crucial to avoid punishing children solely for having a disability or disability-related behaviour.

Other key themes raised among stakeholders include:

- Training and professional development around awareness of disability is needed to ensure disability is appropriately considered
- schools need funding and resources to appropriately accommodate each child
- suspensions and exclusions can lead to increased home schooling and decreased inclusion.

Deep dive interviews with children and young people

Children and young people raised the following as important for disciplinary matters:

- discipline should consider the complexities of a student's disability and life context
- the focus should be on uncovering the underlying causes and helping students, families, teachers, the school community, and the school environment address these
- disciplinary measures should not reduce the student's capacity to learn
- students should never be isolated from peers or denied opportunities for social connection as a form of discipline
- disciplinary measures should never involve taking away reasonable adjustments – for example taking away breaks between classes, increasing workload to catch up, or taking away fidget tools.

Considerations by the Expert Panel and Advisory Council

Expert Panel members noted that while some policies may require disability to be considered in decisions to suspend or exclude students, the fundamental principle of non-discrimination on the basis of disability (and other protected attributes) in this context should be appropriately enshrined in law.

Advisory Council members raised that educating all students and educators about disability may lead to fewer breaches of discipline – particularly in circumstances where a child with disability has harmed another student following ongoing bullying and teasing.

Findings

Current approaches to discipline can be a barrier to the access and inclusion of students with disability in education settings in the following ways:

- students can be disciplined for matters where their behaviour was in response to their reasonable adjustment requirements not being met
- students can unintentionally be denied access to their required supports and adjustments when disciplinary measures and consequences do not consider the student's disability.

Recommendations

Recommendation 8

The *School Education Act 1999* (WA) should provide a framework for suspension and exclusion for breaches of school discipline, that aims to prevent discrimination on the basis of disability and is aligned to the *Disability Discrimination Act 1992* (Cth) and the *Equal Opportunity Act 1984* (WA).

Ideas for actioning this recommendation

Actioning this recommendation could involve:

- outlining matters that must be considered when there is a suspected breach of discipline by a child with disability, including:
 - whether reasonable adjustment obligations were met including consultation, implementation, and monitoring
 - how the child's disability can be considered when determining options for consequences of the breach of discipline
- considering whether the above obligations could also apply to non-government schools.

To support the recommendation and provide clarity for those with functions under the SE Act, there could be policies, procedures, or requirements relating to:

- timely reintegration plans for suspended students
- continued access to learning and educational materials for a suspended student throughout the duration of any suspension
- data collection.

Panels

Background

The SE Act enables the Minister to establish three specific panels:

- Attendance Panel (see Section 39)
- Disabilities Advisory Panel (see Section 87)
- Discipline Advisory Panel (see Section 93).

Attendance Panels are formed on referral when a student is in persistent breach of attendance requirements. The Panel's role is to consider the matters and prepare a written report with advice and recommendations.

The Disabilities Advisory Panels and Discipline Advisory Panels can both be formed for the purpose of examining matters where there are grounds to exclude a student.

Disabilities Advisory Panels are referred matters where the student has a disability and the grounds for exclusion are those outlined in Section 91(b) – where the student's behaviour has disrupted the educational instruction of other students.

Discipline Advisory Panels are referred matters where the student does not have a disability and the grounds for exclusion relate to either Sections 91(a) or 91(b). Section 91(a) includes where the student has either:

- adversely affected or threatened the safety of anyone on the school premises or participating in an educational programme of the school
- caused damage to property.

There is a noticeable absence of a provision to form a panel to consider matters where the student has a disability and the grounds for exclusion relate to Section 91(a).

The review's Discussion Paper asked whether the SE Act should be changed regarding the Disabilities Advisory Panel and/or Discipline Advisory Panel provisions. It did not ask about Attendance Panels.

Research

Research packages

Not applicable.

Consultation analysis

Of the public submissions that responded with a view on whether or not there should be changes to the SE Act in regard to the Disabilities Advisory Panel and/or Discipline Advisory Panel provisions, 94% expressed that the Act should be changed.

Stakeholder group	Percentage that expressed the SE Act should change regarding the Disabilities Advisory Panel and/or Discipline Advisory Panel provisions *	Key themes raised by the stakeholder group
Families of those with a disability	97%	<ul style="list-style-type: none"> The Panels should compose of representatives from diverse backgrounds to ensure varied perspectives. The Panel should focus on proactive support and intervention. The Panel should review exclusion and suspension cases.
Those employed in the education sector	88%	<ul style="list-style-type: none"> The Panels should be composed of representatives from diverse backgrounds to ensure varied perspectives.

*of those who responded with a view on whether or not there should be changes to the SE Act in regard to the Disabilities Advisory Panel and/or Discipline Advisory Panel provisions (i.e. this does not include those who were unsure or did not express an opinion).

Public submissions noted that the Disabilities Advisory Panels and Discipline Advisory Panels should be composed of representatives from diverse backgrounds to ensure varied perspectives are considered. Suggested members include:

- those with lived experiences of disability
- parents
- educators
- disability advocates
- mental health professionals.

A few public submissions noted the need for the Panels to include representatives from First Nations, CALD, and LGBTIQ+ backgrounds.

Deep dive interviews with children and young people

Children and young people raised lived experience as important for those making or contributing to decisions:

- often people making decisions about students with disability do not have lived experience
- it is frustrating when people without lived experience think they understand or know what is best for people with disability
- schools and staff need to avoid tokenism or infantilization. They also need to avoid placing the burden of advocacy on children and young people with disability.

Considerations by the Expert Panel and Advisory Council

Expert Panel members raised:

- the current scope of the Disabilities Advisory Panels is broadly accepted as being too limited as it can only be formed for exclusions under Section 91(b) instead of also considering exclusions under Section 91(a)
- exclusion panel provision should incorporate elements of Recommendation 7.2 of the Disability Royal Commission, including:
 - principles establishing that exclusions should be used as a last resort and should consider the student's disability, age, needs, and the effects of the exclusion on that child
 - an obligation on the school to have made reasonable adjustments to meet the needs of the student over a period prior to the exclusion decision
 - a requirement to report exclusions.

Findings

The current provisions for Disabilities Advisory Panels can be a barrier to the access and inclusion of students with disability in education settings in the following ways:

- students who are considered for exclusions under Section 91(a) are unable to access the Disabilities Advisory Panel
- without suitable lived experience representation on the panel, students' requirements and behaviours may be misunderstood, and recommendations about how the matter should be dealt with may be unsuitable.

Recommendations

Recommendation 9

Instead of having Discipline Advisory Panel and Disabilities Advisory Panel, there should just be one type of panel within the *School Education Act 1999* (WA) that considers exclusionary discipline. The panel should be formed for any exclusion of a child under Sections 91(a) and 91(b) and panel membership must include at least one independent person with lived experience of any equity groups relevant to the student's identity (such as disability, First Nations [for First Nations children this should be a local elder], students in out of home care, CALD, LGBTQIA+ etc).

Ideas for actioning this recommendation

When actioning this recommendation, consider:

- removing the concept of Disabilities Advisory Panels from the SE Act
- amending the Discipline Advisory Panel provisions so they can then be used for all students
- providing that Discipline Advisory Panel membership should include:
 - expertise in inclusive education
 - expertise in school discipline
 - lived experience of any equity groups relevant to the student's identity (such as disability, First Nations students in care, CALD, LGBTQIA+, etc.)
- including elements of Recommendation 7.2 of the Disability Royal Commission

- whether the panels' recommendations should be binding unless there is Ministerial approval to overturn the panels' recommendation
- whether the Discipline Advisory Panels could also be used in circumstances where a student has been subject to a high number of suspensions
- whether there should be any age restrictions on exclusions generally. For example, children in their pre-compulsory and first year of compulsory education have an increased likelihood that the presence, absence, and/or extent of neurodevelopmental disability may not yet be fully known. South Australia's *Education and Children Services Act 2019* (SA) provides that a child under the age of 16 cannot be expelled*.

**Please note that South Australia uses the term 'expelled'. Under the South Australian law, 'exclude' has a different meaning.*

Recommendation 10

The attendance panel provisions within Section 39 of the *School Education Act 1999* (WA) should provide that panel membership include at least one independent person with lived experience of any equity groups relevant to the student's identity (such as disability, First Nations [for First Nations children this should be a local elder], students in out of home care, CALD, LGBTQIA+ etc).

Ideas for actioning this recommendation

Attendance panel members could also include lived experience of any equity groups relevant to the *parent's* identity. This is to accommodate for circumstances where the reasons for non-attendance may be more relevant to the parent's circumstances than the child's.

Restrictive practices

Background

Restrictive practices are actions or interventions that limit a person's freedom or control their behaviour. Restrictive practices are sometimes used in response to breaches of discipline or to maintain order. They can include:

- physical restraint: holding or blocking someone's movement
- chemical restraint: using medication to sedate someone
- mechanical restraint: using devices like straps or belts to restrict movement or taking a communication device away from someone
- seclusion: isolating a person in a room or space they cannot leave
- environmental restraint: changing the environment to limit a person's movement or activities, like locking doors or removing mobility aids
- psychosocial: telling a person they are unable to do something without attempting to make an adjustment.

The SE Act does not explicitly provide for restrictive practices; however, Regulation 38 of the School Education Regulations 2000 outlines the circumstances in which a staff member of a government school can take reasonable action, 'including physical contact with a student'.

The review's Discussion Paper asked whether the SE Act should be changed regarding restrictive practices.

Research

Research packages

Key findings from the research packages:

- The CRC outlines that all children have a right to freedom and protection from physical or mental harm.
- CRPD outlines that children with disability should not have their freedom taken away without a valid reason and clarifies that the presence of disability is not a valid reason.
- Significant inquiries in Australia have recommended that schools work to eliminate the use of restrictive practices, including:
 - 2015 Senate Inquiry into violence, abuse and neglect against people with disability in institutional and residential settings
 - 2016 Senate Education and Employment References Committee Report: Access to real learning: the impact of policy, funding and culture on students with disability
 - Disability Royal Commission (2023).
- The WA Government has 'accepted in principle' Recommendations 6.35, 6.36, 6.39 and 6.40 of the Disability Royal Commission. These recommendations cover:
 - an appropriate legal framework should be in place in education (and other) settings to provide that a person with disability should not be subjected to restrictive practices except in accordance with procedures for authorisation, review, and oversight established by laws
 - some forms of restricted practices should be immediately banned from use in education settings

- data needs to be collected on the use of restrictive practices
- there should be targets to reduce and eventually eliminate the use of restrictive practices.
- The WA Department of Communities is currently undertaking work in this topic area in response to the Disability Royal Commission and may introduce legislation covering this recommendation.

Consultation analysis

Of the public submissions that responded with a view on whether or not there should be changes to the SE Act in regard to restrictive practices, 93% expressed that the Act should be changed.

Stakeholder group	Percentage that expressed the SE Act should change regarding restrictive practices *	Key themes raised by the stakeholder group
Families of those with a disability	100%	<ul style="list-style-type: none"> • Restrictive practices should be used as a last resort – limited to emergencies with significant risk (for example, imminent danger to a person). • Need for clear guidelines, definitions, and expectations around the permissible use of restrictive practices.
Those employed in the education sector	87%	<ul style="list-style-type: none"> • Need for clear guidelines, definitions, and expectations around the permissible use of restrictive practices. • Need for school staff and leaders to be trained to understand the guidelines, expectations, and use of restrictive practices.

*of those who responded with a view on whether or not there should be changes to the SE Act in regard to restrictive practices (i.e. this does not include those who were unsure or did not express an opinion).

Key themes raised by stakeholders include:

- trauma experienced by children and young people because of restrictive practices. Multiple stakeholders raised that this led to their child refusing to return to school and having to instead partake in home education
- guilt experienced by parents and families for sending their child to a school where restrictive practices were used against the child
- rates of injuries to teachers – schools are finding it increasingly challenging to comply with the *Work Health and Safety Act 2020* (WA) and keep the work environment safe for teachers
- the need for a clear definition of restrictive practices and outlining when they may and may not be used
- restrictive practices should be used as a last resort – limited to emergencies with significant risk (for example, imminent danger to a person)
- the need for a greater focus on positive behaviour support rather than restrictive practices.

Deep dive interviews with children and young people

Due to the potentially distressing nature of this topic, restrictive practices were not raised explicitly for discussion with children and young people. During other conversation topics, some children and young people raised the following:

- witnessing and experiencing students being denied access to lunch breaks as a form of discipline
- witnessing and experiencing students being physically restrained when alternative options could have been used.

Findings

Restrictive practices can have a traumatic and enduring effect on students. The current lack of clarity in the definition and use of restrictive practices is a barrier to safe and inclusive education, including by providing a barrier to the development of a trusting relationship between students, families and educators.

Recommendations

Recommendation 11

Introduce provisions into the *School Education Act 1999* (WA), its subordinate legislation, or alternative WA legislation, that provide greater clarity about the use of restrictive practices in education. This should apply to all children across government and non-government schools.

Ideas for actioning this recommendation

When actioning this recommendation, consider:

- Recommendation 6.35 and Recommendation 6.36 of Disability Royal Commission, and expanding these to also apply to students who do not have a disability
- responsibilities around data collection and publication
- independent oversight
- consultation with the Department of Communities, which is developing a statutory framework for the authorisation of restrictive practices for people with disability.

Disputes and resolutions

Background

Section 118 of the SE Act deals with disputes and complaints. Section 118 lacks prescriptive detail, applies to government schools only, and defers the framework for disputes and complaints to be made by regulations. It further outlines that the regulations may provide the CEO with the power to create a scheme for dealing with disputes and complaints via an instrument published in the Government Gazette. No record of an instrument published in the Government Gazette has been found.

The review's Discussion Paper asked whether the SE Act should be changed regarding the handling of complaints.

Research

Research packages

Key findings from the research packages:

- Article 24 of the CRPD, General Comment 4, says that there must be independent, effective, accessible, transparent, safe, and enforceable ways to handle complaints and legal issues in cases about the right to education.
- The WA Government 'accepted in principle' Recommendation 7.10 of the Disability Royal Commission, which includes:
 - state and territory governments should have complaint management offices that operate at arm's length from schools with the role of providing families information about their rights, conducting conciliations, connecting families with advocacy support, and analysing complaints
 - embedded complaint handling duties within registration requirements for all schools.
- The WA Government also 'accepted in principle' Recommendation 7.11 of the Disability Royal Commission, which includes an obligation for school registration authorities to monitor complaints or complaint trends.

Consultation analysis

Of the public submissions that responded with a view on whether or not there should be changes to the SE Act regarding disputes and complaints, 96% expressed that the Act should be changed. This was the question in the Discussion Paper with the highest level of endorsement.

Almost all written submissions stated that the current avenues to pursue resolutions on education matters are inadequate and should be changed, with a strong and consistent theme in favour of an independent, third-party body to handle disputes and complaints.

Stakeholder group	Percentage that expressed the SE Act should change regarding disputes and complaints *	Key themes raised by the stakeholder group
Families of those with a disability	98%	<ul style="list-style-type: none"> The importance of having an independent and transparent process with a third party to ensure impartiality. Complaints should be taken seriously, with adequate support provided.
Those employed in the education sector	96%	<ul style="list-style-type: none"> The importance of having an independent and transparent process with a third party to ensure impartiality. The need for clear guidelines, processes, and communication of outcomes to ensure transparency.

*of those who responded with a view on whether or not there should be changes to the SE Act in regard to disputes and complaints (i.e. this does not include those who were unsure or did not express an opinion).

Consultation findings highlighted a desire for:

- clear guidelines, processes, and communication of outcomes to ensure transparency
- step-by-step processes for lodging complaints, and guidelines for investigating the complaints, with accessibility for students and parents.
- alignment with the Disability Royal Commission recommendations
- having an independent and transparent process with a third party to ensure impartiality. The role of this third party would include providing information and support, conducting investigations, determining outcomes, and facilitating referrals to appropriate external bodies
- safety from repercussions when making a complaint
- clarity on what the child and family's rights are
- any changes to the complaint process to not create additional workload for schools.

Deep dive interviews with children and young people

Children and young people raised the following as important for complaints and disputes:

- students need to be comfortable and confident raising issues with no fear of negative consequences (including staff and teachers being angry, annoyed, exasperated, dismissive, or passive-aggressive towards students and their needs)
- complaints need to be recorded and actioned, with evidence of acknowledgement and progress updates provided
- discipline, complaints, and disputes should lead to learning and change
- urgent steps should be made to minimise harm while a complaint is in progress
- an organisation independent from the Department of Education needs to look at system-wide trends from feedback provided through complaints, disputes, and feedback.

Considerations by the Expert Panel and Advisory Council

Expert Panel members noted that the current complaints processes often apply in a context of unequal power dynamics between participants, and any mechanisms and concepts should aim to compensate for these uneven power and resource dynamics, and avoid imposing disproportionate burdens and risks on vulnerable individuals, being students with disability and their families.

Advisory Council members raised:

- the complaints body must be able to assist parents in communicating with the school, which would help in circumstances where the family is finding it hard to explain their side of the problem
- resolutions are best achieved when the conciliation process involves people who have built trust with the family and understand the issue.

Findings

The current approach to disputes and complaints is a barrier to the access and inclusion of students with disability in education settings in the following ways:

- fear of repercussion prevents some student and family complaints being raised
- families do not know their rights and do not know where to find information on their rights
- there is no system-wide tracking to support system-level analysis and improvements
- stakeholders feel there is a current lack of independence and transparency in the management of disputes and complaints.

Recommendations

Recommendation 12

Consistent with the Disability Royal Commission Recommendation 7.10, accepted in principle by the WA Government, introduce provisions into the *School Education Act 1999* (WA) to establish an independent complaints, disputes and resolutions body.

Ideas for actioning this recommendation

The functions of the independent body could be to:

- provide accessible information on rights and entitlements under the SE Act
- support and facilitate the timely resolution of disputes and complaints relating to matters under the SE Act
- handle matters relating to government schools, non-government schools, and home education
- handle matters relating to all children (not just children with disability)
- accept referrals from children, families, schools, CEO, and any other person.

The body's membership could include persons with relevant expertise in:

- inclusive education
- school discipline
- government schools
- non-government schools
- 'at educational risk' groups, including students with disability and First Nations students.

When actioning this recommendation, consider:

- Recommendation 7.10 of the Disability Royal Commission
- Recommendations 9, 10 and 11 of the Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools
- consulting with the Health and Disability Services Complaints Office (HADSCO), including learnings from the 2024 statutory review (ongoing)
- consulting with the Office of the Commissioner for Children and Young People (CCYP) for advice on child-friendly complaints processes
- whether an immediate interim measure could be creating a regulatory framework that aligns to this recommendation (this could be done under Section 118 of the SE Act).

Monitoring progress

Background

This review of the SE Act aims to identify opportunities to strengthen access and inclusion for students with disability. To definitively know whether any changes to the SE Act achieve this aim, and to support the identification of any further barriers, there should be monitoring mechanisms put in place.

The review's Discussion Paper asked for ideas on how the government could monitor what is happening.

Research

Research packages

Recommendation 7.9 of the Disability Royal Commission was 'accepted in principle' by the WA Government and includes:

- there should be data collection across government and non-government schools on:
 - student experiences
 - school outcomes for students with disability
 - progress in addressing barriers to inclusive education practices
- the educational, social, and behavioural progress and support needs of children with disability in home education.

Recommendation 7.9 of the Disability Royal Commission was also 'accepted in principle' by the WA Government and includes obligations for stronger oversight and monitoring on matters relating to enrolment policies, complaints and the use of funding for students with disability.

Consultation analysis

The Discussion Paper question relating to Monitoring did not present a binary choice for stakeholders (i.e., should change or should not be changed), but instead was an open question asking how the WA Government can monitor what is happening and understand if things are improving.

Submissions highlighted the importance of capturing data:

- Qualitative data - to ensure continuous improvement in inclusive education. Submissions recommended the use of surveys or questionnaires, as well as verbal feedback and annual processes, to gather insights from teachers, families, schools, students, and community members.
- Quantitative data - to track the inclusivity of the environment. Suggested data points included enrolment, attendance, discipline actions, satisfaction levels, adjustments made, and, in some cases, academic measures. Some stakeholders also highlighted the option to share data across networks, schools, or system levels to demonstrate the effectiveness of support while respecting privacy considerations.

Stakeholder group	Key themes raised by the stakeholder group
Families of those with a disability	<ul style="list-style-type: none"> The importance of qualitative feedback from key stakeholders (e.g., parents, families, teachers) to ensure continuous improvement in inclusive education. Opportunity to collect quantitative data to track the inclusivity of the environment.
Those employed in the education sector	<ul style="list-style-type: none"> The importance of qualitative feedback from key stakeholders (e.g., parents, families, teachers) to ensure continuous improvement in inclusive education. Opportunity to collect quantitative data to track the inclusivity of the environment.

Deep dive interviews with children and young people

Children and young people raised that it is important to monitor the following:

- the Department of Education, and everyone who works in a school, should have a responsibility to continuously and proactively learn
- schools and teachers should create a culture of safe feedback and proactively check in with students to ensure they are being supported to learn.

In addition to the above, children and young people shared their ideas for mapping how certain actions may lead to broader change. These ideas have been visualised in Impact Diagrams, included in **Appendix 3**.

Findings

To understand if access and inclusion is being meaningfully strengthened for students with disability, there must be monitoring mechanisms in place. This may support policy makers in identifying any further barriers that exist within the *School Education Act 1999*.

Recommendations

Recommendation 13

Introduce data collection obligations into the *School Education Act 1999* (WA) to enable the Minister to monitor progress against the objects and principles of the *School Education Act 1999* (WA).

Recommendation 14

Introduce a statutory review provision to ensure that any changes made to the *School Education Act 1999* (WA) as a result of a Bill responding to this review, must be reviewed within 5 years of taking effect; and the review report be tabled in Parliament.

Ideas for actioning this recommendation

Consider collecting data on disability status in regard to:

- enrolments
- enrolment cancellations (this would be used to identify how many students have their enrolment cancelled after census or school funding entitlements are calculated)
- access to the 'common learning environment'
- the use of attendance panels

- fines issued under Section 38 (attendance-related fines to children and parents)
- education attainment (e.g. Western Australian Certificate of Education [WACE], ATAR, etc.)
- home education
- suspensions
- exclusions
- reasonable adjustments
- flexible arrangements
- restrictive practices
- appeals and complaints
- use of funding for students with disability.

When actioning this recommendation, consider:

- Recommendations 7.9 and 7.11 of the Disability Royal Commission
- whether there should be public reporting on any of the data to support accountability and progress towards achieving the objects of the SE Act
- whether the data collection obligations should also apply to non-government schools.

Standards for non-government schools

Background

The basic structure of the SE Act:

- **Part 1** – covers preliminary matters such as the objects and key definitions.
- **Part 2** – covers the requirements for all children to access education during their compulsory years.
- **Part 3** – provides a detailed framework for the operation of government schools, including provisions for enrolment, discipline, roles and responsibilities.
- **Part 4** – provides a framework for the registration and regulation of non-government schools.
- **Part 5** – provides for the establishment and administration of student residential colleges.
- **Part 6** – provides for general administration, such as delegation of duties.
- **Part 7** – provides for miscellaneous matters such as the statutory review provisions.

Part 3 is the most comprehensive part of the SE Act as it outlines provisions on how certain aspects of government schools are intended to operate. Part 4 does not reflect this same level of detail as it does not cover matters relating to how non-government schools operate. Instead, the operation of non-government schools is partly guided by a set of Standards made by the Minister under Section 159 of the SE Act.

As the Standards are an instrument that sits outside the SE Act, they were not scrutinised as part of this review, and the Discussion Paper did not ask explicit questions about non-government schools.

Research

Research packages

The following key human rights and antidiscrimination instruments apply equally to government and non-government schools:

- CRC
- CRPD
- DDA
- DSE
- EOA

Consultation analysis

Whilst not an explicit question, many stakeholders raised that matters of access and inclusion should equally apply to government and non-government schools. This was raised in relation to:

- entitlement to enrol on an equal basis as students who do not have a disability
- reasonable adjustments
- communication and consultation
- breaches of discipline

- restrictive practices
- disputes and resolutions
- monitoring progress.

Deep dive interviews with children and young people

This was not a specific topic explored by children and young people, however a key finding from the interviews was that enrolment decisions should never been driven by academic grades as this can have a disproportionate impact on students with disability.

Considerations by the Expert Panel and Advisory Council

Expert Panel members raised the importance of expectations and responsibilities relating to students with disability applying equally to government and non-government schools. This is necessary to ensure that all schools in WA meet their obligations under the DDA and DSE and is critical to achieving 'whole of state' improvement in the access and inclusion of students with disability in WA.

Findings

Students in non-government schools may continue to experience the barriers identified in this review unless similar changes are reflected in non-government settings.

Recommendations

Recommendation 15

There should be obligations on non-government schools regarding access and inclusion for students with disability. This could be actioned through expanding the Standards under Subsection 159(1) of the *School Education Act 1999* (WA).

Other important issues – Flexible arrangements

Background

The SE Act provides that every child must be enrolled in some form of educational programme for every year of their compulsory education period. This can be achieved by enrolling at a school, home education, or, in the final years of compulsory education, undertaking an apprenticeship, higher education, a VET course, or approved employment.

Section 23 of the SE Act outlines that school attendance must be full-time unless the principal and the parent make a special arrangement under section 24.

The review's Discussion Paper asked whether the SE Act should change to provide greater flexibility in how students engage in education.

Research

Research packages

Many reports and inquiries highlight the need for improved access to flexible learning arrangements.

- A Different Kind of Brilliance: Report of the Inquiry into Support for Autistic Children and Young People in Schools (2024) – The inquiry found that flexible arrangements for autistic students can help them stay engaged in education. Recommendation 14 outlines that schools need clear guidelines on approving flexible attendance and subject loads for students who need them.
- Report of the Education and Employment References Committee of the Australian Parliament: The National Trend of School Refusal and Related Issues (2023) – Recommendation 5 is that State and Territory education authorities and non-government schools find ways to make education more flexible including making mainstream schools more adaptable and making it easier for students facing school refusal to access distance education and home schooling.

Other jurisdictions explicitly outline flexibility in their equivalent education legislation.

- Both Portugal and Italy allow timetabling as a form of adjustment under their education legislation.
- Queensland's *Education (General Provisions) Act 2006* (QLD) provides for a detailed framework for students in government and non-government schools to access flexible arrangements.
- In 2024 the Australian Capital Territory passed the *Education Amendment Act 2024* (ACT) which will come into effect in the ACT on 1 January 2025. This includes changes to allow for greater flexibility in attendance.

Consultation analysis

Of the public submissions that responded with a view on whether or not there should be changes to the SE Act in regard to flexible engagement, 94% expressed that the Act should be changed.

Stakeholder group	Percentage that expressed the SE Act should change regarding flexible arrangements*	Key themes raised by the stakeholder group
Families of those with a disability	99%	<ul style="list-style-type: none"> • Need for greater flexibility in school delivery and scheduling (including school hours and blended learning). • Flexibility for schools to adapt and provide personalised learning. • Need for greater flexibility in participation and assessment to ensure full engagement of students with disability or diverse needs in education.
Those employed in the education sector	87%	<ul style="list-style-type: none"> • Need for greater flexibility in school delivery and scheduling (including school hours and blended learning). • Flexibility for schools to adapt and provide personalised learning. • Importance of parental choice, particularly regarding home education.

*of those who responded with a view on whether or not there should be changes to the SE Act in regard to flexible engagement (i.e. this does not include those who were unsure or did not express an opinion).

Submissions noted the need for greater flexibility in school delivery and school schedules to accommodate different learning styles, including:

- access to flexible school hours (including part-time attendance)
- delivery of blended learning through a mix of online learning, mainstream education, or learning at home.

Deep dive interviews with children and young people

Children and young people talked about reasonable adjustments, enrolment, and flexibility being interdependent and all playing a role in influencing how it might be best for a child or young person with disability to learn and develop. This included:

- students should be allowed to have a mix of learning from home and school supported by the school to meet disability requirements
- students' needs around flexibility vary day to day, hour to hour, and lesson to lesson
- some schools are wrongly punishing students for poor attendance rather than supporting them to access flexible attendance arrangements
- plans for flexible arrangements need to be executed.

Considerations by the Expert Panel and Advisory Council

Expert Panel members raised that the following needs to be considered around flexible arrangements, including where such arrangements are delivered through reasonable adjustments:

- potential impacts on WACE and ATAR
- student funding is attached to enrolment – there will need to be clear lines of accountability and access to resources in circumstances where a child has a flexible arrangement in place where they do some of their learning at home or not at the school
- some community service providers are funded to only support students enrolled in government school settings. Further research is needed to determine how this may impact students engaged in home learning as part of a flexible arrangement
- the principle of ‘inclusive education’ in Article 24 of the CRPD and General Comment No.4 (Right to Inclusive Education) contemplates children learning together within the general education system as a way of enriching their academic, social, and emotional development, and preparing them for life in a diverse world. Home education is instead grounded in recognition of a parental right to choose education that aligns with religious or moral values, subject to certain limitations. Flexible arrangements allowing some remote access to learning are distinct from home education in that they are delivered by the education system, but must seek to find a balance between supporting a child to access education away from school in appropriate circumstances, whilst working towards participation in inclusive education through the removal of barriers and the provision of supports
- impacts on access to school services, such as school psychologists, if a student is learning at a place other than the schools (i.e. learning at home).

Findings

Lack of clear flexibility regarding compulsory attendance requirements and the location of student learning is a significant barrier to students with disability accessing education.

Recommendations

The review is not making specific recommendations in this space as further work is required to determine whether greater flexibility is best provided through amendments to Section 24 of the SE Act, or whether this section is adequate but needs to be supported by enhanced policies and guidance. Alternatively, where flexible arrangements are delivered for some students as a form of reasonable adjustment, they could be addressed through anti-discrimination frameworks, such as the EOA.

Ideas for further consideration

Consideration could be given to exploring whether there is benefit in actioning any of the following through either policy or legislative amendment:

- providing entitlements for school students to engage in flexible arrangements for the location of their learning, including for some learning to occur at home (where the student’s education remains the responsibility of the school)
- defining flexible arrangements as any form of shared attendance between:
 - school and home or online learning
 - school and School of Isolated and Distance Education (SIDE) or School of the Air
 - the common learning environment and other spaces within the school, such as self-regulation or sensory spaces.

- applying the flexible arrangements provisions to all students
- providing that flexible arrangements can only be made when certain conditions are met – Sections 182 and 183 of the *Education (General Provisions) Act 2006* (QLD) provide a scheme that may be considered and drawn from
- providing safeguards to ensure the provisions are not used to exclude students with disability from accessing an inclusive education in the common learning environment
- applying the flexible arrangements provision to arrangements made under Sections 11A-11N of the SE Act, which allows for options other than school in the final two years of compulsory education.

Other important issues – Roles and responsibilities

Background

The SE Act includes functions, responsibilities, and powers for various roles under the Act:

- **The Minister:** key powers and responsibilities include establishing and closing schools, setting standards for non-government schools, reviewing certain decisions, and giving schools exemptions from the provisions of the SE Act.
- **CEO (Director General of the Department of Education):** key powers and responsibilities include setting the standard of care and educational instruction in government schools, overseeing home education, determining and cancelling enrolments in certain circumstances, determining exclusions, and overseeing non-government school registrations.
- **Principals:** key powers and responsibilities of all principals are to manage the enrolment process and attendance arrangements; government school principals have additional responsibilities outlined in Section 63 which include providing leadership, ensuring the safety and welfare of students, working with the school council and staff to create school plans, and encouraging innovative teaching.
- **Teachers in government schools:** key functions are outlined in Section 64 and include fostering learning and giving instruction according to the curriculum, CEO's standards, and the school's plan.

The SE Act also sets functions and responsibilities for school councils and parents and citizens associations.

None of the functions in the SE Act specifically mention inclusion or accessibility.

The review's Discussion Paper asked whether the SE Act should change regarding roles and responsibilities.

Research

Research packages

Other Australian states and territories have similar roles and responsibilities, and do not specifically mention inclusion or accessibility as an explicit responsibility. However, in many other states and territories, their equivalent legislation includes objects and principles that centre around access and inclusion for all students. The impact of these references being in objects and/or principles means that everyone who works under these Acts must promote or seek to achieve the objects and/or principles when performing their roles under the respective Act.

Consultation analysis

Of the public submissions that responded with a view on whether or not there should be changes to the SE Act in regard to roles and responsibilities, 93% expressed that the Act should be changed.

Stakeholder group	Percentage that expressed the SE Act should change regarding roles and responsibilities*	Key themes raised by the stakeholder group
Families of those with a disability	98%	<ul style="list-style-type: none"> • Roles and responsibilities should enable greater collaboration – between families, students, school staff, and specialists. • Need for accountability regarding roles and responsibilities.
Those employed in the education sector	87%	<ul style="list-style-type: none"> • Need for clearer roles and responsibilities across the sector – with a focus on their role in providing or promoting an inclusive environment. • Need to consider the current capacity of school staff, with considerations around not adding further responsibilities to their already high workload. • Need for professional development to understand school leaders and staff roles/responsibilities, and best practice for education students with disability, and inclusive education.

*of those who responded with a view on whether or not there should be changes to the SE Act in regard to roles and responsibilities (i.e. this does not include those who were unsure or did not express an opinion).

Public submissions highlighted:

- a need for clearer roles and responsibilities across the sector, with a focus on their role in providing or promoting an inclusive environment
- the SE Act currently lacks explicit responsibility for inclusion, leading to inconsistent support for students with disability
- clearer roles and responsibilities would improve accountability and collaboration between schools, parents, students, and other key professionals
- a key enabler to improved clarity in roles and responsibilities is training, specifically as it relates to school staff and school leaders understanding their roles and responsibilities, and best practice
- caution in adding further responsibilities to the already high workload of school staff.

Deep dive interviews with children and young people

Children and young people raised that:

- they wished teachers and staff at schools were better role models for inclusive behaviour
- schools and teachers have a formative role to play in developing understandings of disability in society
- principals should be responsible for building a culture of inclusivity in their staff, students, and school community
- there should be a defined and fully dedicated role for an advocate or disability advisor in every school.

Findings

Lack of clear roles and responsibilities around access and inclusion for students with disability in education settings is a barrier in the following ways:

- it can lead to students and families having to advocate for themselves and educate those in schools
- there is less incentive and ability to make progress towards access and inclusion (at both the system-wide and individual school level) unless it is linked to explicit powers and duties
- it can lead to inconsistencies in access and inclusion between classrooms and schools.

Recommendations

The review is not making specific recommendations in this space as further work is required to explore which roles may be suitable for explicit responsibilities and whether duties would be best placed in legislation or policy. The review is aware of the existing high workload of school staff and considers any initial additional responsibilities may be best placed with the Minister and/or CEO to steward whole-of-system reform that will strengthen the access and inclusion for students with disability.

Ideas for further consideration

Consideration could be given to exploring whether there is benefit in having specific roles and responsibilities relating to:

- promoting and progressing the objects and principles
- the progressive realisation of inclusive education and Article 24 of the CRPD
- monitoring progress.

Conclusion

This Final Report presents a total of 15 recommendations relating to 13 topics. The report also suggests two further topics for further exploration where research and stakeholders indicate a strong desire and evidence base for change.

Actioning the recommendations could support the implementation of the following recommendations made by the Disability Royal Commission:

- 6.35, 6.36, 6.39, 6.40 – Restrictive practices
- 7.1 – Provide equal access to mainstream education and enrolment
- 7.2 – Prevent the inappropriate use of exclusionary discipline against students with disability
- 7.3 – Improve policies and procedures on the provision of reasonable adjustments to students with disability
- 7.6 – Student and parental communication and relationships
- 7.9 – Data, evidence and building best practice
- 7.10 – Complaint management
- 7.11 – Stronger oversight and enforcement of school duties

Appendix 1: Terms of Reference

Background

Schools play a crucial role in educating our students, setting them up for life and on course to pursue their dreams and be valued members of the community.

Recent commissions, inquiries, reviews and reforms highlight the need for change to ensure that those living with disability are fully included in all aspects of society. This includes ensuring that schools accommodate and include children living with disability and support them to reach their full potential and achieve their goals.

The *School Education Act 1999* was drafted over 25 years ago and does not reflect the evolving understandings and community expectations of students with disability.

The WA Government considers that now is the time to undertake a review of the *School Education Act 1999* to identify opportunities to strengthen access and inclusion for students with disability.

Purpose

The purpose of the review is to identify any barriers to access and inclusion within the *School Education Act 1999* and propose recommendations for reform.

The review aims to:

- strengthen the inclusion of students with disability
- improve the school experience of children with disability
- provide clarity for children and families on their rights
- provide clarity for schools on their responsibilities
- ensure language, terms and definitions align to contemporary expectations and understanding of disability
- align with and complement relevant overarching strategies and instruments

Scope

In scope

The review will examine every section of the *School Education Act 1999* to identify any barriers to, or opportunities to strengthen, access and inclusion for students with disability. This includes identifying any potential gaps in the legislation or where it could be beneficial to introduce a legislative position.

Seven relevant areas have already been identified, and it is expected that further areas will arise throughout the review:

- right to enrol
- definition of disability
- right to teaching and learning adjustment
- obligations for schools to consult with children and families
- role and function of Disability Advisory Panels
- restrictive practices
- alignment to the Convention on the Rights of Persons with Disability (with consideration of Article 24 and General Comment 4)

Additionally, the review will:

- map the broader context of the Act, such as its interaction with State strategies and actions, and national instruments.
- investigate and consider existing practice and research regarding the access and inclusion of students with disability in schools (this includes the legislative schemes of other jurisdictions and countries)
- map the relationship between the Act, its subsidiary legislation and relevant policies
- identify (but not analyse or examine) subsidiary legislation and/or policies relevant to an identified legislative barrier or opportunity for reform.
- acknowledge and learn from the reflections and advice of those with expertise. This includes the expertise of those with lived experience and the considerable perspectives already shared through the submissions from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

Out of scope

The review is the first step in the legislative reform process. The intent is that this review will result in recommendations to the Minister to consider for amendment to the *School Education Act 1999*.

As such, the review will not include a detailed examination of subsidiary legislation (i.e. the School Education Regulations 2000 and the School Education (Student Residential Colleges) Regulations 2017) or policies. Instead, as highlighted above, the review will consider the *School Education Act 1999*, and where a barrier or opportunity is identified within the Act, the review will map and note the relevant policies and subsidiary legislation.

Where relevant, reference to subsidiary legislation and/or policies will be included alongside each recommendation in the final report. This will assist with the development and implementation of any future reform in response to the review.

The review will not amend the Act; it will instead result in a final report with recommendations for reform for the Minister for Education to consider. As with any legislative reform, changes to the *School Education Act 1999* will require Cabinet approval before any amendments can be drafted and introduced.

The review will not consider funding structures or models.

Governance

The review will be directed by an expert panel with skills and experience in disability, human rights, and education. Telethon Kids Institute autism researcher Professor Andrew Whitehouse will lead the expert panel. Details of the other panel members will be provided once the panel is established.

The expert panel will be supported by an advisory group with membership drawn from the recently established Disability and Inclusion Advisory Group and Disability and Inclusion Consultative Committee, as well as school representatives. This will ensure that disability and inclusion advocacy groups, researchers and academics, peak service providers, schools and families have a key role in the governance of the review.

The Department of Education will coordinate the review and support the expert panel in developing all project deliverables.

Deliverables

The review will deliver three key papers.

- **Discussion paper:** to support engagement and consultation, outlining the initially identified barriers and opportunities for reform.
- **Interim Report:** to the Minister for Education, summarising emerging themes.
- **Final Report:** to the Minister for Education, outlining final findings and recommendations.

Engagement

The expert panel will undertake targeted engagement with relevant stakeholders including schools, students, and other identified persons and organisations.

The approach to engagement will include face-to-face workshops, invitation for written submissions, and other modes to be determined by the expert panel.

Appendix 2: Consultation approach and participation

Background

The following stakeholders were invited to participate in consultation for the review. Stakeholders were contacted via email or after an expression of interest. Interested members of the public were invited via flyers and through disability interest and advocacy groups. This consultation breakdown does not include the 'deep dive' with children and young people.

Breakdown of consultation sessions

Consultation	Number of sessions
Round Table Discussions	6
Public Information Sessions	8
Individual Sessions	20
Total	34

Individual consultation sessions

Individual consultation sessions were held for key stakeholders to receive a one-on-one overview of the Discussion Paper and an opportunity to ask any questions. All participants in the individual consultation sessions were encouraged to prepare a written submission. Government Departments and Organisations with functions central to education and/or disability inclusion were invited to schedule an individual consultation.

Of all stakeholders invited to an individual consultation:

- 3 of 5 Government Departments attended
- 16 of 21 Organisations attended

Government Departments invited for individual consultation	Status of attendance
Department of Communities	Yes
Department of Education	Yes
Department of Health	No
Department of Justice*	No
Department of Premier and Cabinet	Yes

**Note: Whilst the Department of Justice did not formally participate in the consultation, the review did consult with Corrective Services on numerous occasions to discuss matters ultimately deemed out of scope for this review.*

Organisations/other groups invited for individual consultation	Status of attendance
Catholic Education Western Australia (CEWA)	Yes
Association of Independent Schools of Western Australia (AISWA)	Yes
Commissioner for Children and Young People	Yes
WA Student Council (Department of Education)	Yes
Aboriginal Advisory Council of Western Australia (AACWA)	No
Council of Aboriginal Services Western Australia (CASWA)	No
Ministerial Multicultural Advisory Council (MMAC)	Yes
Legal Aid WA - Disability branch	No
Isolated Children's Parents' Association (ICPA)	Yes
Equal Opportunity Commission	Yes
Home Education WA (HEWA)	Yes
Home Education Association (WA branch)	Yes
Law Reform Commission of Western Australia	No

School Curriculum and Standard Authority	Yes
Western Australian Council of State School Organisations Inc. (WACSSO)	No
Ministerial Advisory Council for Disability WA	Yes
Developmental Disability WA (DDWA)	Yes
The West Australian Association of Teacher Assistants Inc. (WAATA)	Yes
Independent Education Union WA (IEUWA)	Yes
Evolve	Yes
Principal Network	Yes

Roundtable discussion sessions

Stakeholders invited to roundtable discussions included unions and associations, as well as boards with expertise in disability and inclusion. One roundtable was held for each type of stakeholder group. An additional roundtable was held to accommodate those unable to attend their respective roundtable session.

Of all stakeholders invited to Roundtable Discussion:

- all unions attended
- 11 of 14 non-government sector associations attended
- all other school associations attended
- both Disability and Inclusion groups (established by the Department of Education) attended.

Unions invited to Roundtable Discussion	Status of attendance
Principals' Federation of Western Australia (PFWA)	Yes
State School Teachers' Union of WA (SSTUWA)	Yes
Community & Public Sector Union/Civil Service Association of WA (CPSU/CSA)	Yes
United Workers Union	Yes

Non-government sector associations invited to Roundtable Discussion	Status of attendance
Catholic Secondary Principals' Association of Western Australia (CSPAWA)	Yes
Catholic Primary Principals' Association of Western Australia (CPPAWA)	Yes
Catholic School Parents WA	Yes
Adventist Christian Schools	Yes
Anglican Schools Commission	Yes
Association for Christian Education	Yes
Australian Baptist Education	No
Australian Islamic Colleges	Yes
Free Reformed School Association	Yes
Lutheran Education Australia	No
Swan Christian Education Association	Yes
Christian Schools Australia	Yes
Marist Schools Australia	Yes
Jewish Education Board of WA	No

Other school associations invited to Roundtable Discussion	Status of attendance
Western Australian Education Support Principals and Administrators' Association Inc. (WAESPAA)	Yes
Western Australian Primary Principals' Association (WAPPA)	Yes
Western Australian Secondary School Executives Association (WASSEA)	Yes
Western Australian District High School Administrators' Association (WADHSAA)	Yes
Western Australian School Business Professionals Association	Yes
School Psychologists Association of Western Australia	Yes
School of Isolated Distance Education	Yes

Disability and Inclusion groups invited to Roundtable Discussion	Status of attendance
Disability and Inclusion Advisory Group	Yes
Disability and Inclusion Consultative Committee	Yes

Attendance for public information sessions

The public information sessions had attendees from organisations and/or interested members of the public. These organisations are not specified to maintain the confidentiality of individuals who may have attended without representing their specified organisation.

The Deafblind WA information session was an Easy Read and Easy Speak presentation of the Discussion Paper, featuring Auslan interpreters. This consultation was held ahead of the consultation phase to allow its recording to be published on the review website, alongside the release of the Discussion Paper, for those requiring audio or Auslan.

One of the face-to-face group consultation sessions was held for organisations, while the other was for interested members of the public. Both sessions were held in the Perth Metropolitan region.

Four Regional Sessions were held in 3 education regions: Southwest, Midwest, and Kimberly regions – with 2 sessions in the Kimberly at Broome and La Grange.

An online session was held to accommodate anyone unable to attend the face-to-face sessions, including those living regionally. Participants from these sessions were individuals or organisations.

Public information sessions	Number of sessions
Deafblind WA	1
Face-to-face group consultations	2
Online group consultation	1
Kimberly consultation	2
Midwest consultation	1
Southwest consultation	1
Total	8

Appendix 3: Impact diagrams from consultation with children and young people

There are 7 impact diagrams.

Impact Diagram 1 and 2: Defining disability

Impact Diagram 3: Inclusive education

Impact Diagram 4: Adjustments

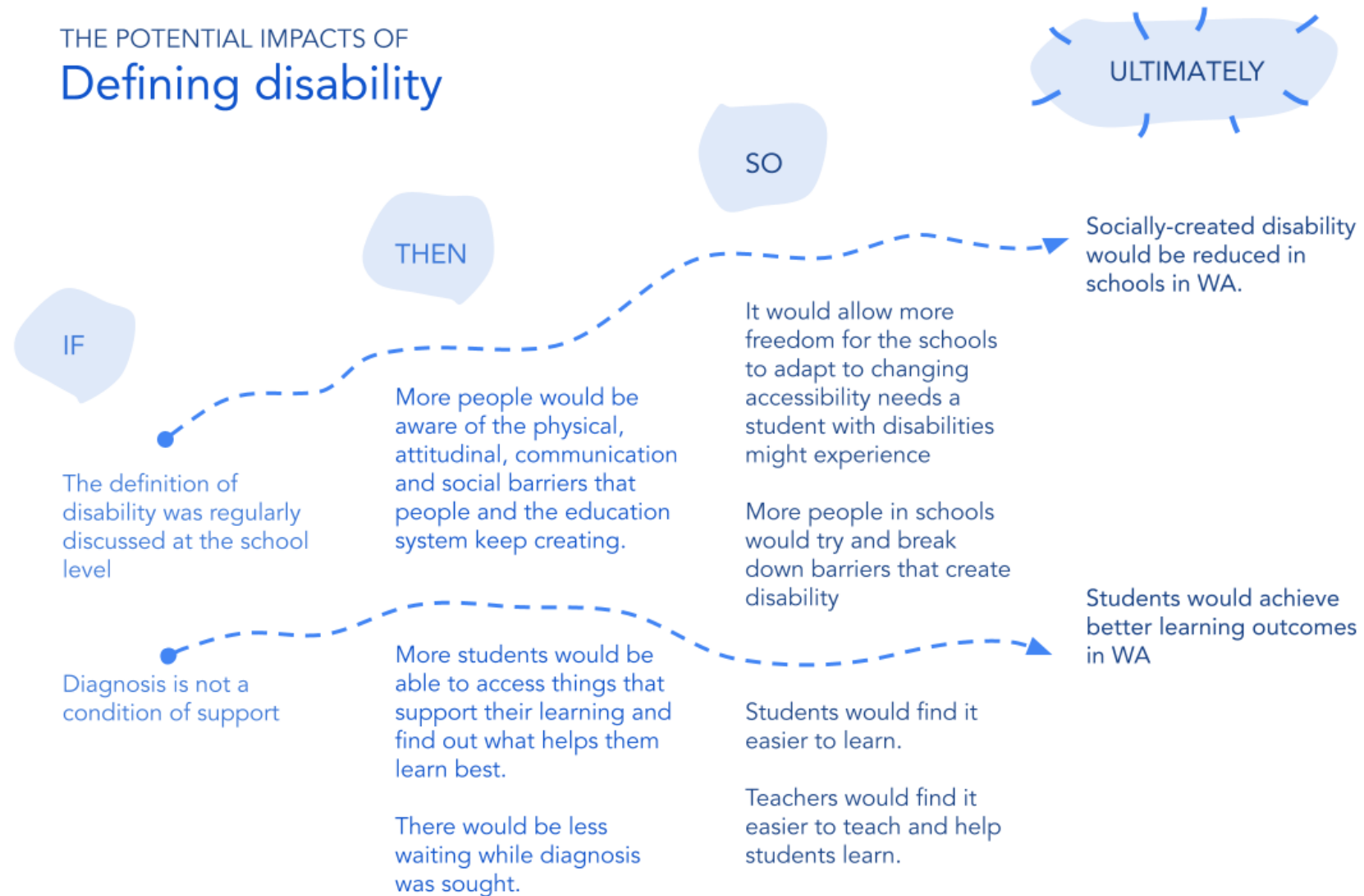
Impact Diagram 5: Communication and consultation

Impact Diagram 6: Complaints and feedback

Impact Diagram 7: Discipline

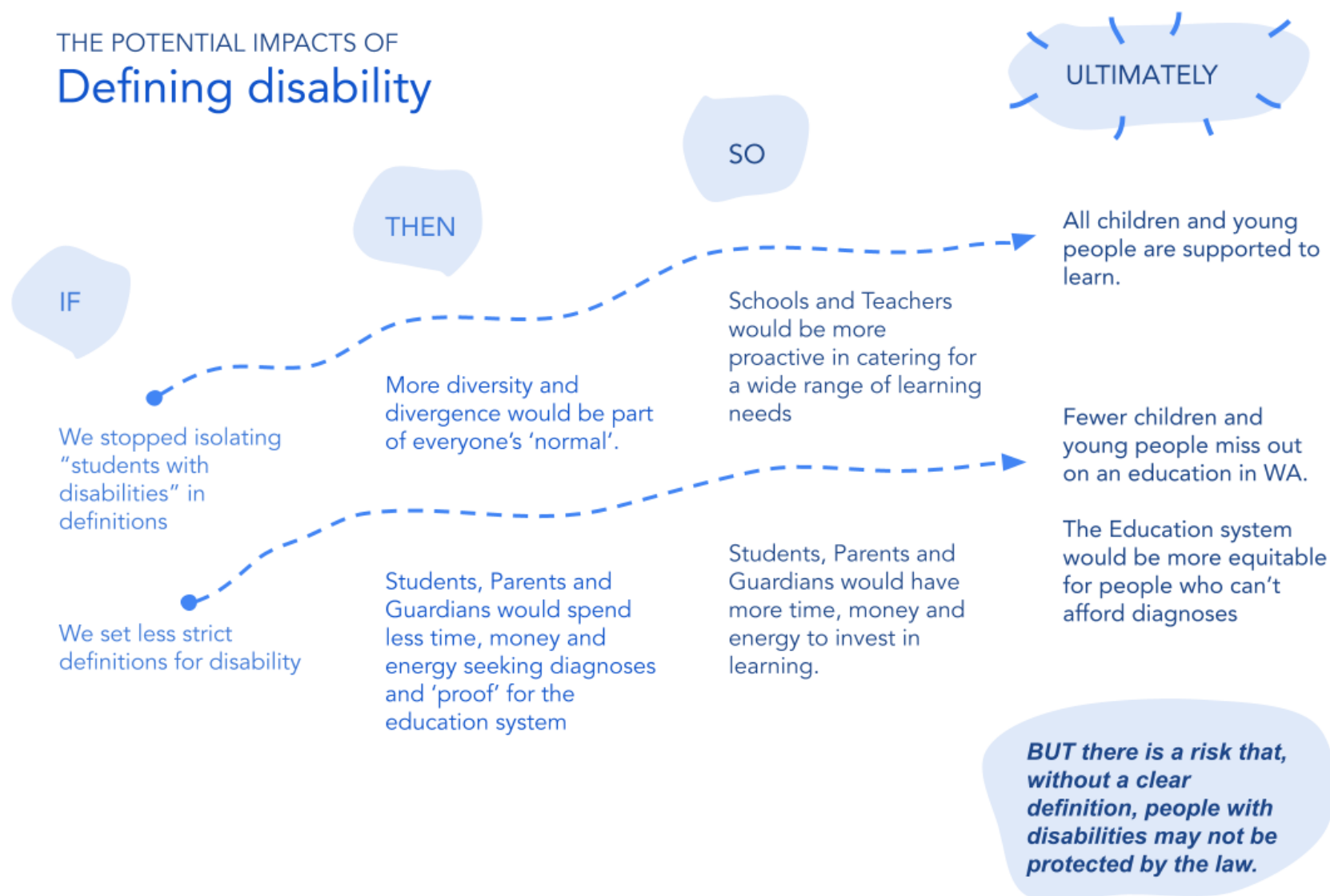
Impact Diagram 1

THE POTENTIAL IMPACTS OF Defining disability

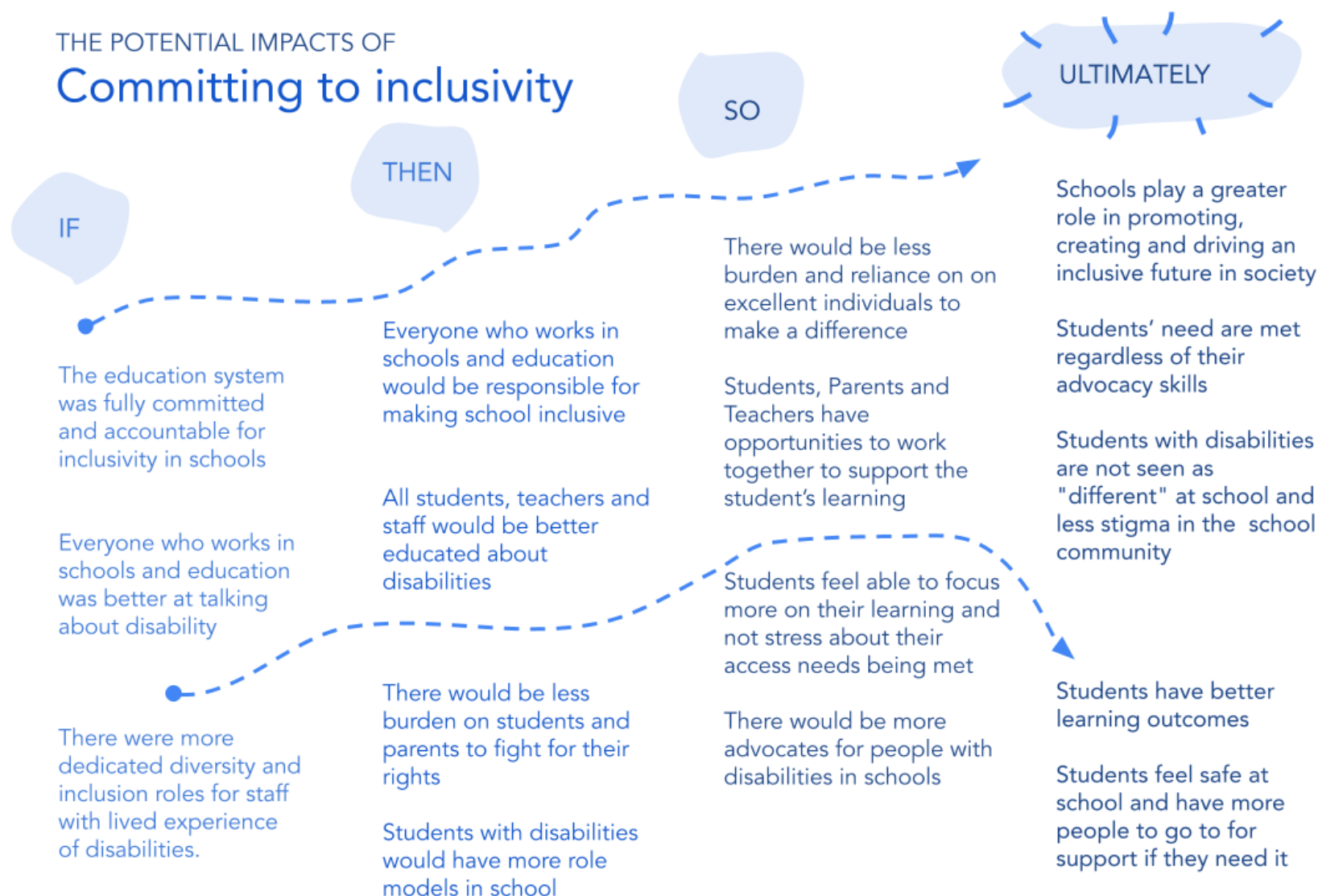


Impact Diagram 2

THE POTENTIAL IMPACTS OF Defining disability



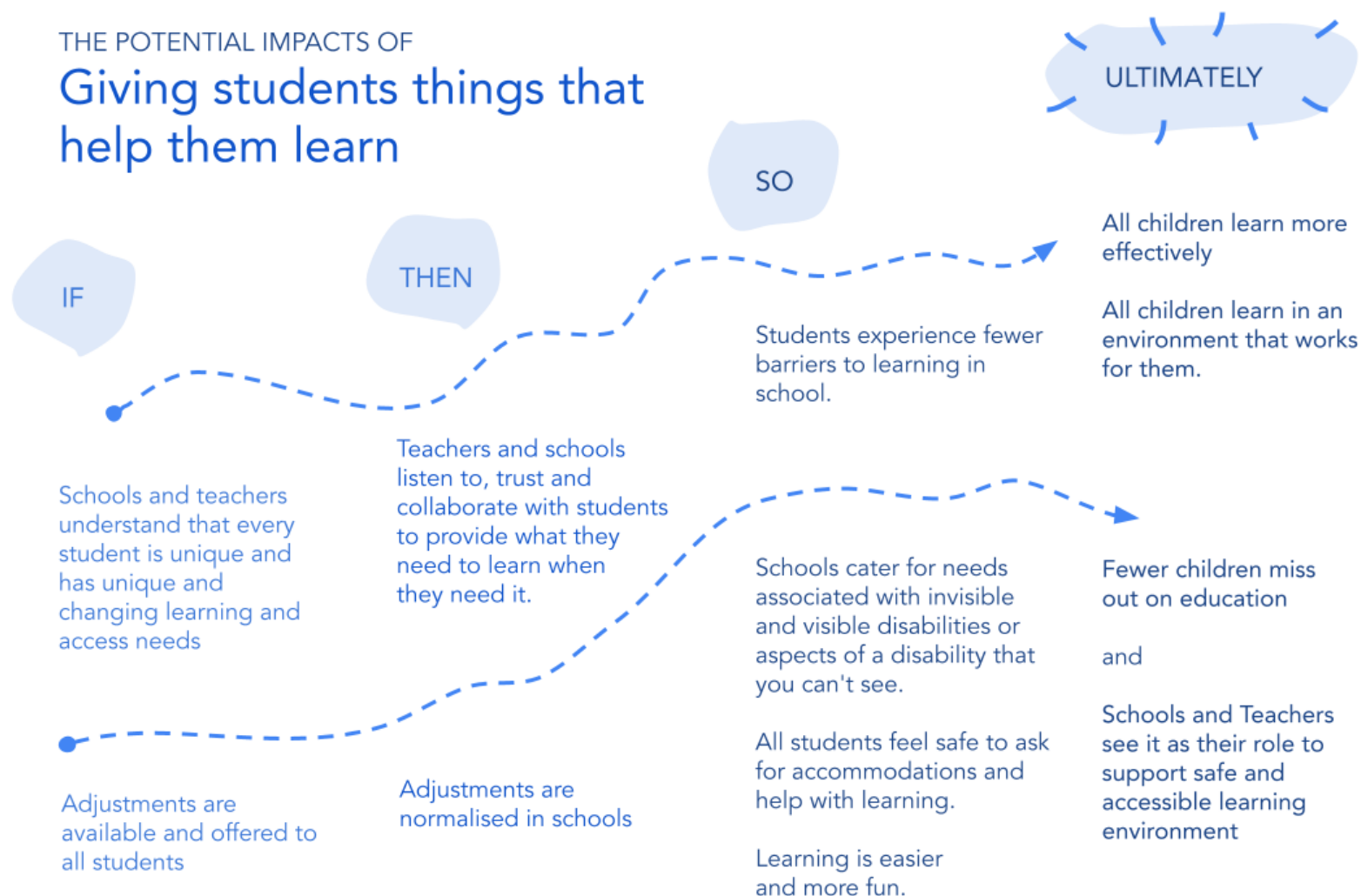
Impact Diagram 3



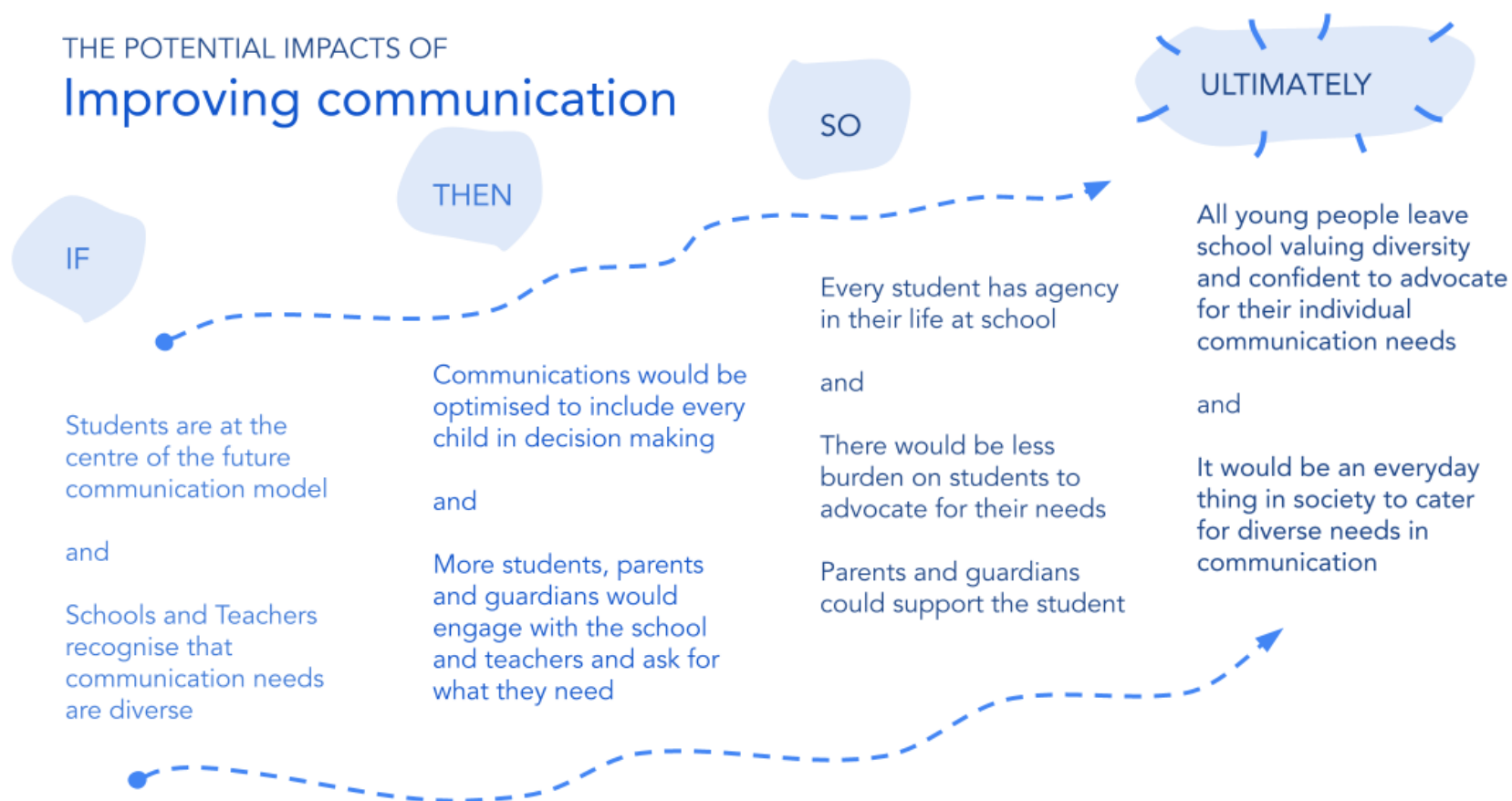
Impact Diagram 4

THE POTENTIAL IMPACTS OF

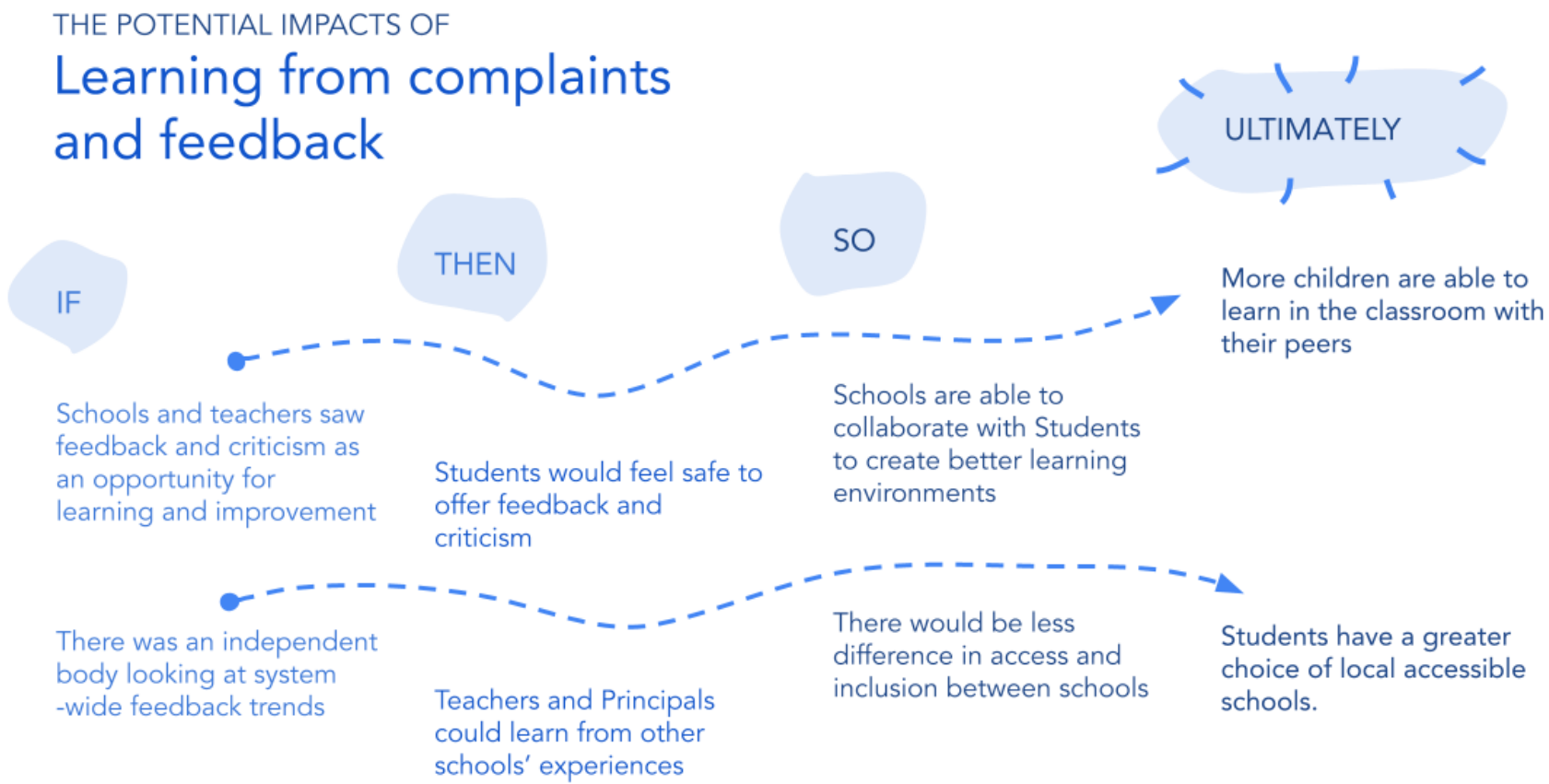
Giving students things that help them learn



Impact Diagram 5



Impact Diagram 6



Impact Diagram 7

THE POTENTIAL IMPACTS OF

Using discipline as a constructive learning experience

